

A1581  
Jan. 3, 1990

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

939 ELLIS STREET

SAN FRANCISCO, CALIFORNIA 94109

771-6000

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## BOARD OF DIRECTORS REGULAR MEETING

9:30 A.M., WEDNESDAY, JANUARY 3, 1989-1990

JAN 19 1990

UNIVERSITY OF CALIFORNIA

## MINUTES

### BOARD MEMBERS PRESENT

SHIRLEY CAMPBELL  
CHAIR  
ALBERT ARAMBURU  
HARRY BRITT  
EDWARD CAMPBELL  
MARTHA CLEVINGER

PAUL COOPER  
OSBY DAVIS  
ROD DIRIDON  
ANNA ESHOO  
JIM GONZALEZ

ROBERTA HUGHAN  
SUNNE McPEAK  
GUS NICOLOPULOS  
FRANK OGAWA  
BOB WHITE  
SUSANNE WILSON

### BOARD MEMBERS ABSENT

CHUCK CORICA  
JIM HARBERTSON

### ADVISORY COUNCIL MEMBERS PRESENT

STANA D. HEARNE

JOHN HOLTZCLAW, PhD

DANIEL PHELAN

### STAFF MEMBERS PRESENT

MILTON FELDSTEIN  
AIR POLLUTION CONTROL OFFICER  
THOMAS BELL  
DIRECTOR OF ADMINISTRATIVE SERVICES  
JOAN DRACOTT  
PUBLIC INFORMATION OFFICER  
JAMES R. GUTHRIE  
DIRECTOR OF ENFORCEMENT DIVISION  
PETER HESS  
DEPUTY AIR POLLUTION CONTROL OFFICER

CAROL BRADLEY  
CLERK OF THE BOARDS

DARIO LEVAGGI  
DIRECTOR OF TECHNICAL SERVICES  
EDWARD W. McHUGH  
DIRECTOR OF PUBLIC INFORMATION  
TOM PERARDI  
DIRECTOR OF PLANNING  
JOHN POWELL  
LEGAL COUNSEL  
JOHN SWANSON  
DIRECTOR OF PERMIT SERVICES

**CALL TO ORDER**

Chairperson Campbell called the meeting to order at 9:35 a.m.

**INTRODUCTION OF ADVISORY COUNCIL MEMBERS**

The Clerk introduced John Holtzclaw, PhD.

**PUBLIC PRESENTATION**

There was none.

**APPROVAL OF MINUTES OF DECEMBER 20, 1989****COMMUNICATIONS**

PAUL COOPER, SECRETARY

The following communications were presented:

(12/19/89)

ROD DIRIDON, CHAIRPERSON  
BOARD OF SUPERVISORS  
SANTA CLARA COUNTY  
SAN JOSE, CALIFORNIA

extending invitation to BAAQMD to become an Affiliate Member of the Santa Clara Valley Technology Center. (12/26/89)

(12/13/89)

THE HON. TOM CAMPBELL  
TWELFTH DISTRICT, CALIF.  
HOUSE OF REPRESENTATIVES  
UNITED STATES CONGRESS  
WASHINGTON, D.C.

(12/18/89)

THE HON. NANCY PELOSI  
FIFTH DISTRICT, CALIF.  
HOUSE OF REPRESENTATIVES  
UNITED STATES CONGRESS  
WASHINGTON, D.C.

expressing support for retaining state authority to regulate emissions from non-road vehicles and engines. (12/89)

Director Cooper noted he had received a communication which was not listed on the COMMUNICATIONS; that it was from Mr. Steven DePetrus of the Flecto Company, Inc., submitting commentary on proposed revisions to architectural coatings.



(12/20/89)  
STEVEN DEPETRIS  
DIRECTOR OF TECHNOLOGY  
THE FLECTO COMPANY, INC.  
OAKLAND, CALIFORNIA

submitting commentary on proposed revisions to Regulation 8, Rule 3 (Architectural Coatings) in support of the 350 grams per liter lacquer limit.

#### TRANSFER OF FUNDS

The APCO's report entitled, TRANSFER OF FUNDS, dated December 27, 1989, was presented.

#### REFUNDS

The APCO's report entitled, REFUNDS, dated December 21, 1989, was presented.

#### SET PUBLIC HEARING FOR FEBRUARY 21, 1990 TO CONSIDER AMENDMENTS TO REGULATION 3 REGARDING FEES COLLECTED FOR THE AIR RESOURCES BOARD

The APCO's report entitled, SETTING OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO REGULATION 3: ACID DEPOSITION FEES - CONFLICT OF INTEREST NOTICE, dated December 22, 1989, was presented.

Director White moved the adoption of the above Consent Calendar items; seconded by Director Cooper; carried on roll call:

AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER,  
DIRIDON, ESHOO, HUGHAN, NICOLOPULOS, OGAWA, WHITE, .

NOES: NONE.

ABSENT: CORICA, DAVIS, GONZALEZ, HARBERSON, McPEAK, WILSON.

#### REPORT OF PERSONNEL COMMITTEE

CHAIRPERSON E. CAMPBELL

Director Campbell stated the Committee had met December 20, 1989 to consider the Advisory Council reappointments of Hanwant B. Singh, PhD and Mrs. Etta Allen, who were not recommended for reappointment at the November 16 meeting because they had poor attendance records; that letters from the Chairperson had been sent to them, and each had responded they were still interested in working with the Council and were subsequently recommended for reappointment for a two-year term beginning January 1, 1990 and ending December 31, 1991.



Director Campbell stated he would so move the recommendation; seconded by Director Aramburu; carried unanimously.

Director Campbell stated the Committee had also reviewed applications for appointment to the two vacancies on the Advisory Council in the Unspecified and Agriculture categories; that in addition to the numerous applications received in response to the press release, the resumes of those individuals in the Advisory Council Resource Pool were also considered; and that after receiving confirmation from District Counsel that there was no residency requirement, the Committee voted to recommend Mr. Kerman Franklin of Vacaville to be appointed to the Council in the Unspecified category; and he would so move; seconded by Director Cooper; carried unanimously.

Director Campbell stated the Committee felt many of the applicants for the vacancy in the Agriculture category did not have appropriate or sufficient backgrounds, and after discussion, agreed that farm bureaus in the nine counties should be notified of the vacancy and applications solicited; and staff should readvertise the position in the local newspapers.

Director Wilson arrived at 9:48 a.m.

Director Campbell stated the Ad Hoc Personnel Committee comprised of Board Chairperson Shirley Campbell, Director Davis, and himself had reviewed the allegations of financial misconduct which were contained in an anonymous letter to the Board of Directors; that personal interviews had been conducted with staffmembers; and after lengthy and candid discussions with the interviewees, the Committee unanimously agreed that (1) no criminal misconduct was involved; (2) that the allegations were unfounded and untrue; and (3) staff had operated from an unwritten policy that was not contained in the Memorandum of Understanding; and that it had been brought to his attention at the Committee meetings that when anonymous letters are received, staff should utilize a unified method to keep the Board informed.

Director Eshoo complimented the Ad Hoc Personnel Committee for working hard on the resolution of this matter.

Directors Gonzalez and McPeak arrived at 9:50 a.m.

<p style="text-align: center;"><b>APPROVAL OF AMENDMENTS TO DISTRICT ADMINISTRATIVE CODE REGARDING VOTING PROCEDURES</b></p>
--

Mr. Powell reviewed the APCO's report entitled, PROPOSED AMENDMENTS TO ADMINISTRATIVE CODE REGARDING VOTING PROCEDURES, dated December 27, 1989, stating the Board had, at its December 20 meeting, expressed its intent to consider amendments to the District's Administrative Code relating to voting procedures; and that the proposed changes in Section 5 of the Administrative Code were to clarify the voting procedures for proposals to settle pending legislation, and for determining a majority when Directors exempt themselves due to financial interests.



Mr. Powell reviewed the language in Sections 5.2 and 5.21, noting the additions related to pending litigation in which the District is a defendant in a judicial action and a requirement for an affirmative vote of the majority of the members of the Board; as well as a conflict of interest being reason to reduce the total membership of the Board by the number of members prohibited from participating in the vote.

Director Wilson moved approval of the proposed change; seconded by Director Aramburu; carried on roll call:

AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER,  
DIRIDON, ESHOO, HUGHAN, McPEAK, NICOLOPULOS, OGAWA, WHITE,  
WILSON.

NOES: GONZALEZ.

ABSENT: CORICA, DAVIS, HARBERSON.

Adopted **Resolution No. 1920**, *In the Matter of Amending the Administrative Code*.

<p style="text-align: center;"><b>REPORT OF ALAMEDA COUNTY GRAND JURY CONCERNING COMPLIANCE WITH THE BROWN ACT</b></p>
--

Mr. Feldstein presented his report entitled, REPORT OF ALAMEDA COUNTY GRAND JURY CONCERNING COMPLIANCE WITH THE BROWN ACT, dated December 27, 1989, stating the Alameda County Grand Jury had issued an interim report recommending that all legislative bodies located partially or wholly within Alameda County pass a resolution directing their Legal Counsel to interpret the Brown Act in favor of open meetings and against closed door meetings at all times; and that a resolution was prepared for the Board's consideration.

Director Ogawa so moved; seconded by Director Eshoo.

Director Aramburu raised questions regarding the Grand Jury having the option to remand a Supervisor to court if they did not respond to a Grand Jury inquiry; stating further that he would like to know if the Board were bound legally by law to respond under threat of contempt.

Director Davis arrived at 9:54 a.m.

Upon roll call, the motion to approve the resolution passed:

AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER,  
- DAVIS, DIRIDON, ESHOO, GONZALEZ, HUGHAN, McPEAK, NICOLOPULOS,  
OGAWA, WHITE, WILSON.

NOES: NONE.

ABSENT: CORICA, HARBERSON.

Adopted **Resolution No. 1921**, *In the Matter of Interpreting the Brown Act in Favor of Open Meetings*.



**AIR POLLUTION TOPIC - GLOBAL WARMING AND OZONE DEPLETION**

Using slides and overheads, Ms. Dracott reviewed ozone depletion, stating the cause of depletion of the layer of ozone encircling the earth is a group of chemicals called chloroflourocarbons (CFC's); that the chemicals were simple and cheap to manufacture, and are widely used in industrial and consumer products. Ms. Dracott stated CFC used in the United States consisted of solvents, rigid foam, air conditioners, fire extinguishers, refrigeration, flexible foam, and other miscellaneous products; and that the public could help by insisting that their automobile air conditioner coolant be recycled during servicing; that dry chemical fire extinguishers be used in placed of the Halon-type which contributes to ozone depletion; and be more aware of products that are being reformulated without CFC's.

In her review of global warming, Ms. Dracott stated global warming had been predicted to occur because of the build-up of greenhouse gases in the atmosphere; that the accumulation of greenhouses gases is due to the combustion of enormous quantities of fossil fuels, the destruction of tropical forests, and rapidly increasing global population; though there was not unanimous agreement on this greenhouse theory; there were several steps that could be taken to postpone the greenhouse effect; energy conservation; CFC's should be phased out as quickly as possible; the cutting and burning of tropical forests should be halted; and the development of non-combustible energy generation form such as solar power should be pursued.

Ms. Dracott distributed two new pamphlets which had been designed by the District entitled, (1) Ground Level Ozone and Stratospheric Ozone, and (2) Global Warming.

There was considerable discussion regarding the controversy surrounding the theory of global warming and greenhouse gases; the need for a comprehensive energy conservation policy; getting more information on the subject distributed to the general public, editorial boards, and other interested parties; and the District making a policy statement and joining with the ARB. Director Britt referred to the global warming pamphlet, stating it appeared the District was advocating nuclear power plants; and that was not his position.

After considerable discussion, Director Aramburu suggested staff be directed to prepare a report recommending a Board policy on the issue of nuclear power plants; and that information should be sought from technical information, citations, and scientific evidence. Director Diridon moved staff be directed to prepare a report recommending a package that could be used as a public information promotional procedure and integrated into the public information plan currently being prepared by staff; schedule editorial board meetings with every news media, including electronics, in the region; and the meetings would include the chair and the delegate from the area in which the media is dominant; seconded by Director Aramburu; carried unanimously.

Director Gonzalez requested the sentence referring to nuclear power plants be deleted; and Director Diridon moved that for the next printing of the global warming pamphlet, the reference to nuclear be deleted; seconded by Director Gonzalez.

There was considerable discussion regarding the meaning and interpretation of the reference to nuclear power; and Director Clevenger suggested she would like to have a statement added emphasizing the need for reducing the use of fossil fuel.



During public testimony, Dr. Holtzclaw offered that the term "safe, cheaper nuclear power" is an oxymoron: that the plants are considered dangerous because they are pushed to the believed safety limit in their operation, which makes them cheaper to operate; that in order to have a greater margin of safety, you must reduce the power density, which makes them more expensive; and that he was in favor of the motion to delete the reference to nuclear power plants.

After receiving the approval of the seconder, the maker of the motion amended his original motion to include Director Clevenger's recommendation; and upon roll call, the motion passed unanimously.

**REPORT OF AIR POLLUTION CONTROL OFFICER**

MILTON FELDSTEIN

Mr. Feldstein updated the Board on the status of the lawsuit filed against the District by the environmental groups; stating one of the issues in the complaint before the judge at this time is that no further permits be issued by the District for any modification or construction of new facilities until the SIP had been met; that the issue was ordered by the judge to be briefed, and staff would keep the Board advised.

**CHAIRPERSON'S REPORT**

SHIRLEY CAMPBELL

Chairperson Campbell announced the next Executive Committee meeting would be held at 10:00 a.m., January 31, 1990.

**BOARD MEMBERS' COMMENTS**

Director Hughan questioned whether there was anyone the District could write to regarding smoking trucks; and Mr. Feldstein explained that the California Highway Patrol had the authority to cite smoking vehicles, but they were not doing it routinely; and that staff would be presenting to the Executive Committee its plan of action on this issue.

**TIME AND PLACE OF NEXT MEETING**

9:30 a.m., Wednesday, January 17, 1990, 939 Ellis Street, San Francisco, California.

ADJOURNMENT

The meeting adjourned at 10:34 a.m.

Respectfully submitted,

CAROL BRADLEY  
CLERK OF THE BOARDS

CB:jc



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**BAY AREA**  
**AIR QUALITY MANAGEMENT DISTRICT**  
939 ELLIS STREET  
SAN FRANCISCO, CALIFORNIA 94109



Inst of Governmental Studies  
University of California  
109 Moses Hall  
Berkeley, CA 94720

**FIRST CLASS MAIL**



41581  
Feb 7, 1990

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FEB 26 1990

UNIVERSITY OF CALIFORNIA

## BOARD OF DIRECTORS REGULAR MEETING

9:30 A.M., WEDNESDAY, FEBRUARY 7, 1990

### MINUTES

#### BOARD MEMBERS PRESENT

SHIRLEY CAMPBELL,  
CHAIR  
ALBERT ARAMBURU  
HARRY BRITT  
EDWARD CAMPBELL  
MARTHA CLEVINGER  
PAUL COOPER

OSBY DAVIS  
ROD DIRIDON  
ANNA ESHOO  
JIM GONZALEZ  
JIM HARBERSON  
M. PATRICIA HILLIGOSS

ROBERTA HUGHAN  
SUNNE McPEAK  
GUS NICOLOPULOS  
FRANK OGAWA  
TOM POWERS  
BOB WHITE  
SUSANNE WILSON

#### BOARD MEMBERS ABSENT

CHUCK CORICA

#### ADVISORY COUNCIL MEMBERS PRESENT

JOHN HOLTZCLAW, PhD

JACK C. OPPENHEIMER

DAN PHELAN

#### STAFF MEMBERS PRESENT

MILTON FELDSTEIN  
AIR POLLUTION CONTROL OFFICER  
THOMAS BELL  
DIRECTOR OF ADMINISTRATIVE SERVICES  
ROB DeMANDEL  
RESEARCH & PLANNING SECTION MANAGER  
JAMES R. GUTHRIE  
DIRECTOR OF ENFORCEMENT DIVISION  
PETER HESS  
DEPUTY AIR POLLUTION CONTROL OFFICER

DARIO LEVAGGI  
DIRECTOR OF TECHNICAL SERVICES  
EDWARD W. McHUGH  
DIRECTOR OF PUBLIC INFORMATION  
JOHN POWELL  
LEGAL COUNSEL  
JOHN SWANSON  
DIRECTOR OF PERMIT SERVICES  
CAROL BRADLEY  
CLERK OF THE BOARDS



**CALL TO ORDER**

Chairperson Campbell called the meeting to order at 9:35 a.m.; stating today was a momentous occasion because the Board was expanding its membership to 20; that Mayor Patricia Hilligoss, City of Petaluma, was a former Board member who had served from July 1978 to November 1979 and was representing the County of Sonoma; and Supervisor Tom Powers, a native of Richmond and a member of various Boards in the District was representing Contra Costa County. The new members were sworn in at this time.

Directors Britt and Diridon arrived at 9:38 a.m.

**INTRODUCTION OF ADVISORY COUNCIL MEMBERS**

The Clerk introduced John Holtzclaw, PhD.

**PUBLIC PRESENTATION**

There was none.

**APPROVAL OF MINUTES OF JANUARY 17, 1990****COMMUNICATIONS**

PAUL COOPER, SECRETARY

The following communications were presented:

(1/12/90)  
LAUREL HULLEY  
OAKLAND, CALIF.

(1/22/90)  
LEONARD R. PERILLO  
OAKLAND, CALIF.

(1/30/90)  
(LISA KOKIN)  
BERKELEY, CALIF.

encouraging the adoption of air quality programs set forth in the 1982 Air Quality Plan.  
(1/18/90)

(1/18/90)  
VALERIE NERA, DIRECTOR  
AIR & WASTE MANAGEMENT  
CALIF. CHAMBER OF COMMERCE  
SACRAMENTO, CALIF.

requesting to be placed on the District's mailing list for public notices, workshops and Board meetings. (1/22/90)



(1/17/90)

EAST PALO ALTO REDEVELOPMENT AGENCY  
PALO ALTO, CALIF.

enclosing information relating to the Ravenswood Industrial Area Redevelopment Project in East Palo Alto, California (*transmitted to the Planning Division for commentary*). (1/23/90)

(12/5/89)

RICHARD W. JENSEN  
DEVELOPMENT MANAGER  
BRADDOCK & LOGAN ASSOCIATES BUILDERS & DEVELOPERS  
DANVILLE, CALIF.

submitting commentary on revision of Architectural Coatings Rule (Regulation 8-3). (1/26/90)

(1/23/90)

JOANNE FREILICH, ASSISTANT DIRECTOR  
PUBLIC POLICY PROGRAM, UCLA EXTENSION  
UNIVERSITY OF CALIFORNIA AT LOS ANGELES

enclosing documentation entitled, Transportation Demand Management: Policy Implications of Recent Behavioral Research, dated December 6, 1989, and Transportation Demand Management: Policy Implications of Recent Behavioral Research: A Review of the Literature, dated October 12/13, 1989.

(1/4/90)

THE HON. JOHN DINGELL, CHAIRMAN  
COMMITTEE ON ENERGY AND COMMERCE  
U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C.

corresponding with The Hon. Nancy Pelosi, U.S. House of Representatives, regarding the District's letter concerning the non-road engines provisions of House Resolution 3030.

(1/31/90)

STANLEY HALL  
CITY MANAGER  
CITY OF EAST PALO ALTO  
EAST PALO ALTO, CALIF.

indicating a delay in the transmittal of the Draft Redevelopment Plan and Draft Environmental Impact Report for the Ravenswood Industrial Area. (2/2/90: *Transmitted to the Planning Division for Commentary*)

(1/23/90)  
THE HON. HENRY A. WAXMAN  
CHAIRMAN  
COMMITTEE ON ENERGY & COMMERCE  
U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C.

responding to the District letter regarding the preemption of state regulation of non-road vehicles. (2/5/90)

#### REJECTION OF CLAIMS AGAINST THE DISTRICT

The APCO's report entitled, Rejection of Claims Against the District, dated January 31, 1990, was presented.

#### TRANSFER OF FUNDS

Director Nicolopoulos requested this item be removed from the Consent Calendar for separate discussion.

#### ACCEPTANCE OF QUARTERLY REPORT OF ARB REPRESENTATIVE

Director Hughan presented her report entitled, Quarterly Report of My Activities as an ARB Member, dated January 31, 1990.

#### APPROVAL FOR OUT-OF-STATE TRAVEL

The APCO's report entitled, Request for Out-of-State Travel, dated January 31, 1990, was presented.

Director Cooper moved the adoption of the above Consent Calendar items; seconded by Director Clevenger; carried on roll call:

AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER,  
DIRIDON, HILLIGOSS, HUGHAN, McPEAK, NICOLOPULOS, OGAWA,  
POWERS, WHITE, WILSON.

NOES: NONE.

ABSENT: CORICA, DAVIS, ESHOO, GONZALEZ, HARBERSON.



**TRANSFER OF FUNDS**

The APCO's report entitled, Transfer of Funds, dated January 31, 1990, was presented; and Director Nicolopoulos requested an explanation of the transfer of a total of \$20,000 from the Enforcement Inspection Section Account No. 110 (Permanent Salaries) to the Public Information Accounts No. 225 (Postage) in the amount of \$2,000 and No. 230 (Printing and Reproduction), the amount of \$18,000; to which Mr. Feldstein responded the money was available by virtue of an employee cost-saving.

Director Harberson arrived at 9:42 a.m.

Director Nicolopoulos moved approval of the report and adoption of the resolution; seconded by Director Aramburu; carried on roll call:

AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER,  
DIRIDON, HARBERTSON, HILLIGOSS, HUGHAN, McPEAK, NICOLOPULOS,  
OGAWA, POWERS, WHITE, WILSON.

NOES: NONE.

ABSENT: CORICA, DAVIS, ESHOO, GONZALEZ.

Adopted **Resolution No. 1924**, *In the Matter of Approving Transfers of Funds Between Accounts*.

**REPORT OF EXECUTIVE COMMITTEE**

CHAIRPERSON S. CAMPBELL

Chairperson Campbell stated the Executive Committee had met January 31 and received the Mission and Goals Statement for the Public Information Program. Referring to Item No. 10 before the Directors, Chairperson Campbell stated the Committee voted to add Item Nos. 4 and 5; that Item No. 5 was a part of the Advisory Council report which was presented by the Chairperson, Paul DeFalco, and it included the urging that the District should promote: "understanding risks associated with exposure to toxics, especially in regards to implementation of AB 2588 (Toxics Hot Spots)"; and that if there was no objection, she would entertain a motion to approve the Statement. Director Aramburu so moved; seconded by Director Wilson; carried unanimously.

Chairperson Campbell stated staff will prepare a public information action plan in connection with other aspects of the Public Information Program that has already been referred to the Budget & Finance Committee.

Continuing her report, Chairperson Campbell stated the Committee had also reviewed a four-minute video produced by the Santa Clara County Manufacturing Group; that the Committee felt the video was negative and contained misleading information; and voted to send a letter endorsing the Group's intent, while offering to help them produce a more accurate film.

Director Eshoo arrived at 9:48 a.m.

Chairperson Campbell concluded her report stating the District was involved in the Earth Day 1990 - Care About Clean Air poster contest; that posters would be solicited from students in K through 12th grade from 160 Bay Area School Districts inviting them to submit two posters from each District for the Board to judge in April and forward two winners to the National Contest; and that the campaign was designed to garner student interest in Clean Air and Earth Day.

Chairperson Campbell noted that the Committee had also discussed amending the Budget Calendar meeting dates to allow the Budget & Finance and Personnel Committees enough time to review their requests and hold more meetings, if necessary; and that the Personnel Committee would be meeting at 10:00 a.m. on April 26, and the Finance Committee at 10:00 a.m. on May 10; and that the Public Hearing to Adopt the Budget would be held at the June 20 Regular meeting.

Director Gonzalez arrived at 9:50 a.m.

### REPORT OF PERSONNEL COMMITTEE

CHAIRPERSON E. CAMPBELL

Director E. Campbell stated the Personnel Committee had met January 18 to review 23 applications which had been submitted for the upcoming vacancy on the Hearing Board; that two applications had been submitted after the deadline, and by unanimous vote of the Committee, the late applications were not considered; that five applicants would be personally interviewed at a Personnel Committee meeting at 10:00 a.m., Thursday, February 15; and the outgoing Hearing Board member, Kenneth A. Manaster, had been invited to sit in on the interviews.

Director Davis arrived at 9:54 a.m.

Director Campbell stated the Personnel Committee had also met this morning to discuss the selection of a contractor for the proposed Classification and Compensation Study; and to consider modifying the qualifications for a vacant classification of Payroll Technician.

Noting that it had been ten years since the District had experienced a Classification and Salary Survey, Director Campbell stated bids had been sent out and two contractors had responded -- Personnel Associates in Oakland, and Ralph Anderson Associates of Sacramento; that it was felt both firms could do an excellent job; but that Personnel Associates was requesting \$24,500 plus expenses not exceeding 10%, and Ralph Anderson Associates was seeking \$36,000 including expenses. Noting that Personnel Associates was a Women's Business Enterprise, Director Campbell stated that after discussion, the Committee decided to recommend Personnel Associates of Oakland, and he would so move; seconded by Director Aramburo; carried unanimously.

Continuing his report, Director Campbell stated the Committee was also recommending modification of the qualifications for the vacant classification of Payroll Technician; modification would reflect the prerequisite for at least two years of payroll or computerized accounting and record-keeping; that a salary change was not being made and he would so move the modifications; seconded by Director Cooper; carried un-



Completing his report, Director Campbell stated the Advisory Council had two openings; that the individual previously selected to fill the Unspecified category had declined the offer due to a change in his occupation and residential status; and that at 9:00 a.m., Wednesday, February 21, the Committee would review the applications from the Resource Pool for the Unspecified category, as well as the applications received for the Agriculture opening on the Advisory Council.

Adopted **Resolution No. 1925**, *In the Matter of Modifying the Job Description of a Vacant Position*; and **Resolution No. 1926**, *In the Matter of Approving a Contract and a Classification and Compensation Study and a Related Transfer of Funds from the Reserve for Contingencies*.

### REPORT OF AD HOC COMMITTEE ON RESOURCE RECOVERY FACILITIES

CHAIRPERSON DIRIDON

Director Diridon stated the Committee had met on January 25 and discussed the Primer in draft form; and concluded an Executive Summary and other language changes were needed prior to approval; that the Committee had also discussed the cycle of comment and the conference the State will conduct and the fact that one or two of the Committee members will be invited to attend; that if it is successful, the Committee hopes to conduct a similar conference with the Primer being the topic; and that they were working with Dr. Pat Mason, President, California Foundation on the Environment and Economy.

Director Diridon added that the consultant for the Primer had submitted a request for additional funding; stating they had spent more time on the Primer than they had expected, and had already incorporated changes in the Primer to comply with new State legislation; that the additional funds totalled a maximum of \$31,669; and that he had informed the consultant that the request would be recommended to the Board for forwarding to the Budget & Finance Committee; and Chairperson Campbell so ordered.

### PRESENTATION ON PENALTY ACTIONS EL CERRITO CITY COUNCILWOMAN JEAN SIRI

Mrs. Siri stated for approximately 20 years the Conservation League and North Richmond residents had requested the District reconsider its violation fine policy because they felt it was inadequate; that they had appealed to the State ARB to overrule the District and make upset breakdowns the subject of heavy fines, to no avail; that they felt the time had come for the Board to act in the public interest on the issue of penalties and fines, especially if it takes legislation; and they were willing to assist.

Mrs. Siri stated that only about 80% of the company breakdowns are considered violations; that the State Water Control Board issues fines for **all** spills, and has sizeable fines; adding they do not endeavor to gain compliance, only enforcement; and that is what her group was requesting of the District.

Mrs. Siri reviewed facility spill incidents that had not been penalized by the District; stating regardless of the cause, the residents downwind of the spills were caused harm, especially if they had respiratory illness; that no fine or a very small fine leaves industry with no need for better maintenance; that higher fines to the public means more enforcement personnel; that the H&S Code asks for a consideration of the nature and extent of the violation, but to the breathing public, the statement is unclear; and she questioned how one could prove actual injury as outlined in the H&S Code 42402.1(b) which requires a "**considerable number** of persons or the public" be injured before a penalty is assessed.

Mrs. Siri recalled the Safeway fire which occurred in Richmond in 1989, stating to their knowledge no action was taken by the District or the Health Department; that there was no enforcement action after the Chevron explosion; and they hoped the District would determine ways to achieve cleaner air by tightening the laws; and they were requesting the District push for better legislation. Mrs. Siri added that the residents of Rodeo are very upset with Pacific Refining; and had wanted to attend; as well as residents of Martinez who were having problems with Tosco.

Chairperson Campbell invited Mrs. Siri and her representatives to attend the Legislative Committee meeting immediately following the Board meeting, stating their discussion would cover increasing the penalty amounts; further directing staff to notify Mrs. Siri of future meetings so she could attend regularly.

Director Cooper clarified for Mrs. Siri that at the Board meeting of January 17 Board he had made the motion to refer to the Legislative Committee the matter of reviewing legislation relating to the District's authority to set fines on odor nuisances; and Director McPeak had seconded the motion; adding that it was unfortunate she had not been informed of the Richmond press conference held to announce the new odor number and the meeting of the Legislative Committee.

Director Diridon noted that the matter had been referred to the Legislative Committee to encourage that the maximum limits be increased; but that there was still discretion within the current limits to increase the fines dramatically. Mr. Feldstein explained that the Legislature had restricted the District in terms of the higher fines, because there must be proof on the part of the District that there was negligence, and there must be actual injury to a considerable number of persons (which must be done by the Health Department); thus making it difficult to levy the \$10 - \$25,000 fines.

Director Diridon suggested testing the law by levying the fine, and fighting it out in court; and Chairperson Campbell stated the District tried to achieve compliance rather than tie a matter up in court over an extended period of time. Director Aramburu suggested the Board seek legislation that sets up basic *prima facie* thresholds to make it easier to enforce or prove negligence.

Director Eshoo stated the suggestion made by Director Diridon was worth considering; that the parallel course could be to seek the threshold legislation, which takes time; and that she would request the Legislative Committee also look into the District's legal staff testing the law in this action; and make a recommendation to the Board.



Mr. Powell outlined the successes the Board has had over the years in its effort to get legislation strengthened; stating the Board had a number of options...shift the burden of the higher violations; seek to raise the maximum penalty; establish minimum penalties, as well as maximum penalties.

Director Diridon stated one of the elements that is needed in any bill is that repetitive offenses is *prima facie* evidence of gross negligence; and offenders should be publicly disclosed to the news media for multiple offenders.

Director McPeak stated much time had been spent on the problem in Rodeo; that there was an upcoming meeting scheduled to be held again, and the ultimate resolution to the odor problem is to order the correction of the problem and have regular monitoring by staff; and requested staff be directed to review the Board's existing authority and develop regulations internally that redefine negligence in terms of public impact, so higher penalties could be sought; and moved that be referred to the Executive Committee; seconded by Director Cooper; carried unanimously. Chairperson Campbell directed staff to prepare a report regarding regular monitoring of the Rodeo situation in an effort to correct the problem using existing resources.

MR. HENRY CLARK  
WEST COUNTY TOXICS COALITION

stated he supported the proposal to increase the fines and penalties; that there had been numerous occasions of incidents attributed to negligence that had posed health and safety threats to the residents of his community; that the credibility of the District was very low as a result of the Chevron explosion and Safeway fire; and he would like to know what types of fines or penalties had been levied.

Chairperson Campbell directed staff to respond to Mr. Clark's inquiry; and to establish criteria to communicate to the WCTC staffs action regarding the major incidents that occur. Mr. Feldstein stated he would meet with Mr. Clark immediately following the Board meeting.

Director McPeak noted that it was the District who finally ordered the Safeway fire be extinguished; that Safeway then sued the District and Contra Costa County; and questioned the status of that suit. Mr. Powell explained that the claims had been rejected by the District, and no litigation had commenced, though claims have been filed. Director McPeak requested staff be directed to prepare a review of the circumstances related to the two incidents; how the releases were interpreted as a consequence of the fire, and have the information forwarded to the Executive or Legislative Committee for review, in order to determine whether the action that was taken would be appropriate for incidents occurring in the future. Chairperson Campbell so ordered.

#### REPORT OF AIR POLLUTION CONTROL OFFICER

MILTON FELDSTEIN

Referring to his report entitled, Recent Correspondence relating to CBE/Sierra Club Lawsuit Against the District, dated February 7, 1990, Mr. Feldstein stated the report was for information only and a summary of the latest correspondence relating to the consumer solvent decision of the Judge in the lawsuit; that staff had followed the Board's direction to notify the court of the intent to develop the rule within the timeframe demanded, and that the District was working with the ARB to divide the responsibility.

Mr. Feldstein also noted the Order, entitled ORDER RE RECIPROCATING ENGINES, undated, stating the Judge had ordered the District or ARB, within a certain timeframe, to develop a rule on reciprocating engines; that staff would be discussing the matter with ARB to determine who had responsibility; and would submit a report to the Board thereafter. In response to Director Eshoo's question regarding having received anything from the court relative to the Board's correspondence; Mr. Powell stated the court had not specifically responded, though a status conference had been set for February 16 which staff would be attending, a report would be submitted to the Board at a future meeting.

#### California Clean Air Act and Transportation Control Measures

Mr. Feldstein presented a report entitled, The California Clean Air Act and Transportation Control Measures, undated, stating the Board had directed staff to inform communities of the possibility of onerous requirements in terms of transportation controls as a result of the California Clean Air Act (CCAA); and that the purpose of the document was twofold: (1) once approved by the Board, staff would transmit it to every city, county and planning director in the Bay Area, and (2) make it available to the Board members to aid in spreading the message to other elected officials.

Director McPeak informed the Board that she had relayed the District's position on legislation being considered for promotion through the Association of Council of Governments to the Executive Committee of the County Supervisors Association; that they were sympathetic to the position of both this District and South Coast in not having the control of funds to implement Transportation Systems Management (TSM) to comply with the CCAA. Continuing, Director McPeak stated there was a fundamental problem over TSM; that organizations in the Bay Area were resisting employer-based ordinances; and she urged the Board members to be advocates of the TSM; and, finally to refer to one of the Board's committees, or the Advisory Committee, the task of establishing a unanimously agreed upon goal for single-occupancy vehicle reduction. Chairperson Campbell stated the matter should be referred to the Joint Air Quality Policy Committee (JAQPC). Director Aramburu agreed, stating with the help of Director Powers, they would be aggressive advocates on JAQPC.

Director Aramburu further requested staff send a letter to the Countywide Advisory Board in Marin informing them that he had brought to this Board's attention the CAB was considering ways to distribute their portion of the sales tax money; and in the letter recommend to them to use the TSM-TCM ordinance as a model to be adopted by all jurisdictions before any money is disbursed.

After considerable discussion regarding the TCM report, the following amendments were recommended:

1. Strengthen the section regarding the Inspection & Main-tenance Program by:
  - a. Recommending the I&M Program be an annual program;
  - b. Requiring the inspections be performed by state agencies;
  - c. Making it a no, or very high, exemption level program.
  - d. Emphasizing the need for the Legislature to enhance the program by making it comparable to those states that have very strong programs.



2. In the narrative, add the amount of tonnage (45-50 TPD) that would be derived from a strong program, and compare it to what now exists.
3. Add a discussion of the long-term implications of air quality; and encourage land use planning to be consistent with transit programs.

Director Hughan requested staff work closely with all of the agencies working on this type of proposal; Director McPeak urged the Board members who sat on the JAQPC to set a timeframe for a joint agreed-upon approach to local ordinances that are employer based, and no less than a 35% single occupancy vehicle reduction.

Director Powers stated there were several ways to institute the employer-based TSM program: (A) Voluntary, (B) Strong Recommendation, and (C) Legislation; and that the options could be stipulated in a lawsuit; or to disagree with the plan to be submitted by MTC; and prepare a plan for the District; and finally that a discussion of the long-term implications of air quality should be included in the document, e.g., encouraging land-use planning consistent with transit programs.

#### CHAIRPERSON'S REPORT

SHIRLEY CAMPBELL

Chairperson Campbell gave the following report:

- stated a press conference was held in Richmond last Thursday to announce the new odor hotline;
- that the final report from the symposium she attended at UCLA was available in the Clerk's office;
- that she was appointing the two new Board members to the following Committees:

Director Powers - Legislative  
Director Hilligoss - Budget & Finance

- noted the new Board Roster which included the fax numbers; and requested the numbers be checked for accuracy.
- requested Board members to contact the Clerk in advance if they were unable to attend the Board meetings.

#### BOARD MEMBERS' COMMENTS

Director Harberson announced that Mr. Feldstein made a fine presentation at the Transportation Management Association Symposium regarding land use and mass transit; that the symposium was very well attended, and an excellent program.

**TIME AND PLACE OF NEXT MEETING**

9:30 A.M., Wednesday, February 21, 1990, 939 Ellis Street, San Francisco, California.

**ADJOURNMENT**

The meeting adjourned at 11:27 a.m.

Respectfully submitted,

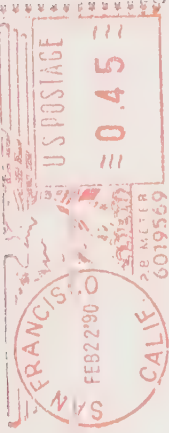
CAROL BRADLEY  
CLERK OF THE BOARDS

CB:jc





**BAY AREA**  
**AIR QUALITY MANAGEMENT DISTRICT**  
939 ELLIS STREET  
SAN FRANCISCO, CALIFORNIA 94109



Inst of Governmental Studies  
University of California  
109 Moses Hall  
Berkeley, CA 94720

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Feb. 21, 1990

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

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UNIVERSITY OF CALIFORNIA

## BOARD OF DIRECTORS REGULAR MEETING

9:30 A.M., WEDNESDAY, FEBRUARY 21, 1990

### MINUTES

#### BOARD MEMBERS PRESENT

SHIRLEY CAMPBELL, CHAIR  
ALBERT ARAMBURU  
HARRY BRITT  
EDWARD CAMPBELL  
MARTHA CLEVINGER  
PAUL COOPER

CHUCK CORICA  
OSBY DAVIS  
ANNA ESHOO  
JIM GONZALEZ  
JIM HARBERTSON  
M. PATRICIA HILLIGOSS

ROBERTA HUGHAN  
SUNNE MCPHEAK  
GUS NICOLOPULOS  
FRANK OGAWA  
TOM POWERS  
SUSANNE WILSON

#### BOARD MEMBERS ABSENT

ROD DIRIDON

BOB WHITE

#### ADVISORY COUNCIL MEMBERS PRESENT

JOHN HOLTZCLAW, PhD

JACK C. OPPENHEIMER

#### STAFF MEMBERS PRESENT

MILTON FELDSTEIN  
AIR POLLUTION CONTROL OFFICER  
THOMAS BELL  
DIRECTOR OF ADMINISTRATIVE SERVICES  
JAMES R. GUTHRIE  
DIRECTOR OF ENFORCEMENT DIVISION  
PETER HESS  
DEPUTY AIR POLLUTION CONTROL OFFICER  
DARIO LEVAGGI  
DIRECTOR OF TECHNICAL SERVICES

EDWARD W. MCHUGH  
DIRECTOR OF PUBLIC INFORMATION  
TOM PERARDI  
DIRECTOR OF PLANNING  
JOHN POWELL  
LEGAL COUNSEL  
JOHN SWANSON  
DIRECTOR OF PERMIT SERVICES  
CAROL BRADLEY  
CLERK OF THE BOARDS

**CALL TO ORDER**

Chairperson Campbell called the meeting to order at 9:33 a.m.

**INTRODUCTION OF ADVISORY COUNCIL MEMBERS**

The Clerk introduced John Holtzclaw, PhD.

**PUBLIC PRESENTATION**

ERNEST GOITEIN  
PENINSULA CONSERVATION CENTER  
ATHERTON, CALIFORNIA

used slides and overheads to explain the air pollution problems and hazards existing at the United Technologies Corporation Plant in Southeast San Jose. At the completion of his presentation, Chairperson Campbell referred the matter to staff for review and a report; and requested Mr. Goitein be notified when the item would be placed on the Board agenda for discussion. Mr. Feldstein noted that staff could have a report to the Board at the April 4 Regular Board meeting.

Director Wilson noted that United Technologies was in her district in Santa Clara County and offered her assistance to Mr. Goitein.

**APPROVAL OF MINUTES OF FEBRUARY 7, 1990****DIVISION MONTHLY REPORTS**

The following Division monthly reports were presented: Administrative Services Appropriation Statement and Cash Position dated December 31, 1989; and Enforcement, Legal Counsel, Permit Services, Planning, Public Information & Education and Technical Services, for the period January 1-31, 1990.



COMMUNICATIONS

PAUL COOPER, SECRETARY

The following communications were presented:

(1/31/90)  
THE HON. PETE WILSON  
UNITED STATES SENATE  
WASHINGTON, D.C.

responding to the District letter regarding proposed amendments to marine loading provisions of the Clean Air Act as set forth in SB 1490 and HR 3030. (2/9/90)

(2/5/90)  
JOSEPH PATTOK  
DIRECTOR, STATE GOVERNMENT AFFAIRS  
THE SOCIETY OF THE PLASTICS INDUSTRY, INC.  
WASHINGTON, D.C.

requesting to be placed on the mailing list for agenda items considered at District Board meetings. (2/13/90)

(2/12/90)  
CHARLES EVANS  
BUSINESS MANAGER  
LABORER'S INTERNATIONAL UNION  
OF NORTH AMERICA, LOCAL 324 - AFL-CIO  
RICHMOND, CALIFORNIA

urging the Board to increase fines and penalties for pollution from oil refineries. (2/14/90)

(2/9/90)  
TERRY MCGUIRE, CHIEF  
TECHNICAL SUPPORT DIVISION  
AIR RESOURCES BOARD  
SACRAMENTO, CALIFORNIA

enclosing the draft minutes of the January 26, 1990 Policy Committee meeting, and the draft Winter 1990 "San Joaquin Valley Air Quality Study News." (2/15/90)

(1/31/90)  
HOWARD HATAYAMA  
REGIONAL ADMINISTRATOR, REGION 2  
TOXIC SUBSTANCES CONTROL PROGRAM  
BERKELEY, CALIFORNIA

enclosing documentation for commentary on a proposed Closure Plan and Negative Declaration for the International Technology Corporation hazardous waste transfer and storage facility located in San Jose, California. *(Transmitted to the Planning Division for Commentary; 2/15/90)*

(2/14/90)

STANLEY H. HALL

EXECUTIVE DIRECTOR

REDEVELOPMENT AGENCY OF THE CITY OF EAST PALO ALTO

EAST PALO ALTO, CALIFORNIA

enclosing the proposed Redevelopment Plan for the Ravenswood Industrial Area Redevelopment Project, the Draft Environmental Impact Report and the Notice of Completion of Draft EIR for the Project. (2/16/90)

(2/13/90)

SUPERVISOR NANCY FAHDEN

CONTRA COSTA COUNTY

MARTINEZ, CALIFORNIA

enclosing recommendation of Supervisor Fahden to the Contra Costa County Board of Supervisors to reduce or eliminate the need to establish proof of intent or negligence as part of imposing a fine for air pollution violations and to increase the maximum fines which can be imposed by the Air District for violations of the Hazardous Waste Control Act. (2/21/90)

#### NOTICE OF PROPOSED CHANGES TO DISTRICT ADMINISTRATIVE CODE

The APCO's report entitled, Notice of Proposed Changes to District Administrative Code, dated February 14, 1990, was presented.

#### REJECTION OF CLAIMS AGAINST THE DISTRICT

The APCO's report entitled, Rejection of Claims Against the District, dated February 14, 1990, was presented.

#### TRANSFER OF FUNDS

The APCO's report entitled, Transfer of Funds, undated, was presented.

Adopted **Resolution No. 1927**, *In the Matter of Approving Transfers of Funds Between Accounts*.

#### APPROVAL FOR OUT-OF-STATE TRAVEL

The APCO's report entitled, Approval for Out-of-State Travel, dated February 14, 1990, was presented.



**SET PUBLIC HEARING FOR APRIL 4, 1990  
TO CONSIDER AMENDMENTS TO REGULATION 9, RULE 1  
REGARDING SULFUR REMOVAL OPERATIONS AT PETROLEUM REFINERIES**

The APCO's report entitled, Setting of Public Hearing - Conflict of Interest Statement, dated February 14, 1990, was presented.

Director Aramburu moved the adoption of the above Consent Calendar items; seconded by Director Eshoo; carried on roll call:

AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER, CORICA, DAVIS, ESHOO, GONZALEZ, HARBERSON, HILLIGOSS, HUGHAN, NICOLOPULOS, OGAWA, POWERS, WILSON.

NOES: NONE.

ABSENT: DIRIDON, McPEAK, WHITE.

Director McPeak arrived at 9:52 a.m.

**REPORT OF LEGISLATIVE COMMITTEE**

CHAIRPERSON HUGHAN

Mr. Feldstein stated the Committee had met February 7 to discuss the Board recommendation to review penalty amounts, and it had been agreed to seek a meeting with Assemblyman Campbell; that they had agreed to support the recently introduced registration fee bill to fund local districts; and staff had been directed to seek a meeting with Senator Presley regarding his willingness to sponsor legislation strengthening the Inspection & Maintenance Program. Director Cooper clarified the motion regarding penalty amounts, stating the Committee had voted to recommend the Board seek legislation that would remove the requirement to prove injury from any *toxic* emissions discharged into the atmosphere; that any identified carcinogenic would, in effect, automatically produce a finding of wrongdoing, and would not require proof before penalty. Director Cooper also entered into the record the February 12 Board communication from the Contra Costa County Board of Supervisors, stating their recommended action was similar to that proposed by the Legislative Committee.

Director McPeak applauded the Committee's action, and questioned whether they had considered the issue of increased fines for non-carcinogenic emissions and odors that often pervaded communities; stating if it was acceptable to the Board, all of those pollutants should be included in the motion.

Director Aramburu added that the Committee had also agreed to arrange a staff and Boardmember carpool luncheon visit to Sacramento to meet with specific legislators in order to demonstrate collective support for the Board's position.

In response to Directors McPeak and Powers' question regarding whether odors had been included in the motion, Mr. Feldstein stated the Committee had recommended a multi-faceted approach to review penalties; that a meeting would be scheduled with Assemblyman Campbell to ask him if he would sponsor the proposed legislation; that District Boardmembers and the Contra Costa County Supervisors would be invited to the meeting, and the discussion would center on absolute liability and increasing the \$1,000 fine; that odors were a violation of the Health & Safety Code Section 41700 which was already law, but that attempts could be made to make it more stringent if the Board so desired. Mr. Feldstein added that the proposed absolute liability legislation for toxic emissions would have to establish a de minimis level, or else every service station and dry cleaner would be subject to penalties every day.

After discussion, Chairperson Campbell directed the Legislative Committee to schedule another meeting; and utilizing the Board input, formalize the Board's position on the motion.

### REPORT OF PERSONNEL COMMITTEE

CHAIRPERSON E. CAMPBELL

Director Campbell stated the Committee had met February 15 to interview the five candidates seeking the Public Member position on the Hearing Board; and that Gail McCarthy, PhD, P.E., had been unanimously approved for recommendation; that because her brother is a District employee, District Counsel was requested to render a legal opinion regarding a possible conflict on the appointment; that the report had indicated no possible conflict existed; and he would so move the recommendation; seconded by Director Gonzalez; carried on roll call:

AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, CORICA, DAVIS, ESHOO, GONZALEZ, HARBERSON, HILLIGOSS, HUGHAN, McPEAK, NICOLOPULOS, OGAWA, POWERS, WILSON.

NOES: NONE.

ABSENT: COOPER, DIRIDON, WHITE.

Adopted **Resolution No. 1928**, *In the Matter of Appointing a Member of the Hearing Board.*

Director Campbell stated the Committee had also met prior to the Board meeting this date to consider two appointments to the Advisory Council; explaining that the recently approved member to the General Public category had declined the appointment for personal reasons, and applications had been solicited for the vacant Agriculture position; that after discussion, the Committee had voted to recommend Ms. Carolyn Bovat to the General Public position, and Mr. Howard James as the Agriculture representative; and he would so move; seconded by Director Corica; carried unanimously.

Director Campbell stated the Committee had also voted to take no further action on the allegations of District staffmember, Michael Rothenberg.



**PUBLIC HEARING TO CONSIDER AMENDMENTS TO REGULATION 3  
REGARDING FEES COLLECTED FOR THE CALIFORNIA AIR RESOURCES BOARD**

Chairperson Campbell opened the public hearing at 10:12 a.m.; and Mr. Powell presented the Clerk with nine Affidavits of Notice of Public Hearing.

Mr. Swanson reviewed the APCO's report entitled, Public Hearing on Regulation 3, Fees (Sher Atmospheric Acidity Protection Act Fees), dated February 13, 1990; stating staff was recommending the regulation be amended to include newly enacted provisions of the State law concerning the Sher Atmospheric Acidity Protection Act which replaces the Kapiloff Acid Deposition Act (1983-88); and that the collected fees, minus 5% for the District's administrative costs, would be transmitted to the ARB for implementing the new program; and it was expected that \$379,903 would be collected for ARB.

Mr. Swanson reviewed the proposed amendments to the regulation, stating staff had not conducted a workshop regarding the State-mandated changes; and that no responses to the notification letters had been received from the 14-16 affected facilities.

After brief discussion, Chairperson Campbell called for public testimony, and the following individual came forward:

ERNEST GOITEIN  
PENINSULA CONSERVATION CENTER  
ATHERTON, CALIFORNIA

questioned whether hydrochloric acid and nitrous oxide would be affected by the amendment.

Mr. Feldstein responded that the fees were specific for sulfur dioxide and nitrogen oxides.

Director Wilson moved the hearing be closed and the resolution adopted; seconded by Director Eshoo; carried on roll call:

AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, CORICA,  
DAVIS, ESHOO, GONZALEZ, HARBERSON, HILLIGOSS, HUGHAN, McPEAK,  
NICOLOPULOS, OGAWA, POWERS, WILSON.

NOES: NONE.

ABSENT: COOPER, DIRIDON, WHITE.

Adopted **Resolution No. 1929**, *In the Matter of Amending Regulation 3 Relative to the Imposition of Fees Pursuant to the Atmospheric Acidity Protection Act of 1988.*

There was discussion regarding the District's monitoring and reporting on acid rain, and Director McPeak suggested staff prepare an update on acid rain. Chairperson Campbell so ordered.

**STATUS REPORT ON CBE/SIERRA CLUB LAWSUIT**

Mr. Powell stated that on February 16 a status conference was held with the judge who was presiding over the lawsuit; that pursuant to Board instruction, staff had also met with ARB and executed an agreement on the responsibilities of each agency related to the issue of consumer solvents; that the District would proceed to prepare a regulation on aerosol paints prior to the June 1990 deadline set by the judge, and ARB would issue regulations on all other consumer products that are within the scope of the judge's Order.

Mr. Powell stated the ARB had agreed to adopt reciprocating engine rules by the January 1990 deadline, and the District must show by January 1991 what the emissions would be from those regulations; and that with respect to pesticides, the ARB and Food & Agriculture Department were working on regulations.

Mr. Powell stated the judge would be issuing a written opinion setting forth the basis for his rulings, including rulings on the permit moratorium issue, and items on the contingency list; and that staff must indicate whether any shortfall that might exist has been made up by enacting other regulations.

Mr. Powell concluded his presentation stating most of the status conference last Friday dealt with MTC issues; that CBE and the Sierra Club had been allowed to take up additional discovery against MTC, and the judge set briefing schedules.

In response to Director Gonzalez' query regarding agency jurisdiction over the pesticide, malathion, Mr. Feldstein stated that the Food and Agriculture Department has jurisdiction, and staff would present an updated report to the Board in the future.

**REPORT OF AIR POLLUTION CONTROL OFFICER**

MILTON FELDSTEIN

**INFORMATIONAL REPORT ON 1991 EMISSION LIMITATIONS FOR BUSES**

Mr. Feldstein presented his report entitled, Update on Diesel and Methanol Bus Technology, and Progress Report on the Bay Area Transit District's Efforts to meet the 1991 Federal Particulate Emission Standard, dated February 20, 1990, stating the EPA had promulgated a particulate standard of 0.1 gram/brake horsepower hour for new buses, which becomes effective in 1991; and that in order to determine how the fleet operators would meet the standard, staff had undertaken a review of the two technologies: (1) methanol and (2) trap oxidizer to meet the standard; and major transit districts in the Bay Area have been purchasing diesel buses and are aware of the 1991 federal particulate standard for future purchase; that transit district maintenance managers criticized methanol-fueled buses for their lack of durability, high cost, and uncertainty of technology; that the Golden Gate Transit District has two methanol-fueled buses in operation; that the average engine life with methanol fuel is only 40,000 miles compared to the average diesel engine life of 250,000 miles, and there is a high deterioration rate of fuel injectors for methanol buses and a high fuel price.



Mr. Feldstein reminded the Board that staff was planning a public meeting in Rodeo on March 5 at 7:30 p.m. to discuss Pacific Refining Company; that invitations would be sent to everyone in the community who had complained (approximately 300) about the facility; that there would be a press release regarding the meeting; and that Supervisor Fahden, the District Attorney and the Health Officer of Contra Costa County had been invited, adding that Directors McPeak, Powers and Cooper would probably also be in attendance.

**CHAIRPERSON'S REPORT**

SHIRLEY CAMPBELL

There was none.

**BOARD MEMBERS' COMMENTS**

Director Nicolopoulos shared an anecdote in securing the smog device for his two automobiles.

**TIME AND PLACE OF NEXT MEETING**

9:30 A.M., Wednesday, March 7, 939 Ellis Street, San Francisco, California.

**ADJOURNMENT**

The meeting adjourned at 11:04 a.m.

Respectfully submitted,

CAROL BRADLEY  
CLERK OF THE BOARDS

CB:jc

DAT MAIL  
AIR QUALITY MANAGEMENT DISTRICT  
939 ELLIS STREET  
SAN FRANCISCO, CALIFORNIA 94109



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University of California  
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Mar 7, 1990

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
939 ELLIS STREET  
SAN FRANCISCO, CALIFORNIA 94109  
771-6000

**BOARD OF DIRECTORS REGULAR MEETING**

9:30 A.M., WEDNESDAY, MARCH 7, 1990

**MINUTES**

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MAR 26 1990

UNIVERSITY OF CALIFORNIA

**BOARD MEMBERS PRESENT**

SHIRLEY CAMPBELL,  
CHAIRPERSON  
ALBERT ARAMBURU  
HARRY BRITT  
EDWARD CAMPBELL  
MARTHA CLEVINGER

PAUL COOPER  
CHUCK CORICA  
OSBY DAVIS  
ROD DIRIDON  
ANNA ESHOO

JIM GONZALEZ  
JIM HARBESON  
ROBERTA HUGHAN  
GUS NICOLOPULOS  
TOM POWERS  
SUSANNE WILSON

**BOARD MEMBERS ABSENT**

PATRICIA HILLIGOSS

SUNNE McPEAK  
BOB WHITE

FRANK OGAWA

**ADVISORY COUNCIL MEMBERS PRESENT**

CAROLYN BOVAT

JOHN HOLTZCLAW, PhD  
DANIEL PHELAN

JACK OPPENHEIMER

**STAFF MEMBERS PRESENT**

MILTON FELDSTEIN  
AIR POLLUTION CONTROL OFFICER  
THOMAS BELL  
DIRECTOR OF ADMINISTRATIVE SERVICES  
ROB DEMANDEL  
RESEARCH AND PLANNING SECTION MANAGER  
JAMES R. GUTHRIE  
DIRECTOR OF ENFORCEMENT DIVISION  
PETER HESS  
DEPUTY AIR POLLUTION CONTROL OFFICER

DARIO LEVAGGI  
DIRECTOR OF TECHNICAL SERVICES  
EDWARD W. McHUGH  
DIRECTOR OF PUBLIC INFORMATION  
JOHN POWELL  
LEGAL COUNSEL  
JOHN SWANSON  
DIRECTOR OF PERMIT SERVICES  
CAROL BRADLEY  
CLERK OF THE BOARDS



**CALL TO ORDER**

Chairperson Campbell called the meeting to order at 9:40 a.m.

**INTRODUCTION OF ADVISORY COUNCIL MEMBERS**

The Clerk introduced John Holtzclaw, PhD, Mr. Dan Phelan and Ms. Carolyn Bovat, stating Ms. Bovat was the recently appointed member to the General Public category on the Council.

**PUBLIC PRESENTATION**

There was none.

**APPROVAL OF MINUTES OF MARCH 21, 1990****COMMUNICATIONS**

PAUL COOPER, SECRETARY

The following communications were presented:

(2/22/90)  
JANANNE SHARPLESS  
CHAIRPERSON  
CALIFORNIA AIR RESOURCES BOARD  
SACRAMENTO, CALIFORNIA

enclosing the Agenda for the forthcoming meeting of the San Joaquin Valley Air Quality Policy Study Committee meeting, set for March 2, 1990. (2/23/90)

(2/22/90)  
JAMES D. BOYD  
CHAIRPERSON  
CALIFORNIA AIR RESOURCES BOARD  
SACRAMENTO, CALIFORNIA

enclosing copy of ARB Executive Order G-501 approving the BAAQMD PM<sub>10</sub> Committal State Implementation Plan. (2/26/90)

(2/26/90)  
ALDO GUIDOTTI  
MAYOR  
ORINDA, CALIFORNIA

requesting BAAQMD review of the system of fines for pollution and safety violations at refineries in Contra Costa County. (2/26/90)

(3/90)  
PUBLIC HEALTH DIVISION  
DEPARTMENT OF HEALTH SERVICES  
CONTRA COSTA COUNTY  
MARTINEZ, CALIFORNIA

submitting Notice of Meeting for April 2, 1990 of the Joint Contra Costa County Task Force and Bay Area Air Quality Management District Meeting on I.T. Corporation, and the Minutes of the December 11, 1989 meeting. (5/5/90)

#### REJECTION OF CLAIMS AGAINST THE DISTRICT

The APCO's report entitled, Rejection of Claims Against the District, dated February 28, 1990 was presented.

#### APPROVAL FOR OUT-OF-STATE TRAVEL

The APCO's report entitled, Approval for Out-of-State-Travel, dated February 28, 1990 was presented.

#### REFUNDS

The APCO's report entitled, Refunds, dated February 28, 1990 was presented.

#### APPROVAL OF CHANGES TO DISTRICT ADMINISTRATIVE CODE RELATING TO BOARD COMMITTEE MEMBERSHIP

The APCO's report entitled, Approval of Changes to District Administrative Code Regarding Board Committee Membership, dated February 28, 1990 was presented.

Adopted **Resolution No. 1930**, *In the Matter of Amending the Administrative Code.*

**TRANSFER OF FUNDS**

The APCO's report entitled, Approval for Transfer of Funds, dated February 28, 1990 was presented.

Adopted **Resolution No. 1931**, *In the Matter of Approving a Transfer of Funds Between Accounts.*

**SET PUBLIC HEARING FOR APRIL 18, 1990  
TO CONSIDER AMENDMENTS TO REGULATION 1, SECTION 301**

The APCO's report entitled, Setting of Public Hearing - Conflict of Interest, dated February 26, 1990, was presented.

Director Diridon moved the adoption of the above Consent Calendar items; seconded by Director Aramburu; carried on roll call:

AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER,  
CORICA, DAVIS, DIRIDON, HARBERSON, HUGHAN, NICOLOPULOS,  
WILSON.

NOES: NONE.

ABSENT: ESHOO, GONZALEZ, HILLIGOSS, McPEAK, OGAWA, POWERS, WHITE.

**REPORT OF AD HOC COMMITTEE ON RESOURCE RECOVERY FACILITIES**

CHAIRPERSON DIRIDON

Mr. Diridon stated the Committee had met on February 22 to discuss the requested changes made to the primer; that they had discussed the next step in regard to the educational forums; and that because grant funds were not available to the District, the Committee had recommended they look into local funding. Director Diridon added that the Committee had voted to change its name to "The Integrated Solid Waste Management Committee."

**REPORT OF BUDGET & FINANCE COMMITTEE**

CHAIRPERSON WILSON

Director Wilson stated the Committee had met this morning to consider the \$31,669 additional funds request for Brown, Vence & Associates to cover the unanticipated costs of preparing amendments to the Resource Recovery Facilities Committee primer; that staff had thoroughly reviewed the request, and recommended additional funding in the amount of \$17,094; and the Committee had agreed; adding that it hoped these would be the only funds needed to complete the project. Director Wilson noted the motion had passed on a 5 to 2 vote; and so moved the recommendation; seconded by Director Diridon, who added the Committee also felt the \$31,669 was not necessary.



Noting that he had been one of the negative votes, Director Davis reminded the Board he had been against the project in the very beginning because he did not view waste management as a top priority of the District; and that during the meeting Director E. Campbell (the other negative vote) had reminded him that when the primer was first funded, the Board had been informed the original amount was all that would be needed.

Chairperson Campbell called for the vote on the motion to approve the recommendation which included a transfer of funds from the reserve for contingencies, and the motion carried on roll call:

AYES: ARAMBURU, BRITT, S. CAMPBELL, CLEVINGER, COOPER, CORICA,  
DIRIDON, HARBERSON, HUGHAN, NICOLOPULOS, WILSON.

NOES: E. CAMPBELL, DAVIS.

ABSENT: ESHOO, GONZALEZ, HILLIGOSS, McPEAK, OGAWA, POWERS, WHITE.

Adopted **Resolution No. 1932**, *In the Matter of Approving an Amendment to the contract with Brown, Vence and Associates for the preparation of a Resource Recovery Primer and a Related Transfer of Funds from the Reserve for Contingencies.*

#### REPORT OF LEGISLATIVE COMMITTEE

CHAIRPERSON HUGHAN

Director Hughan stated the Committee had met on March 1 to discuss recommendations to increase the District's penalty authority, and to review legislation now being developed in Sacramento which may affect the District.

Director Gonzalez arrived at 9:50 a.m.

Director Hughan stated the Committee had reviewed the various Health and Safety Code sections which authorized civil penalties for air pollution control districts to pursue; and the following suggestions were discussed:

- (a) §42402: retain the \$1,000 penalty for administrative violations; and add a maximum \$5,000 penalty for violation of an emission limit, and require that the person must establish that the violation was not the result of intentional or negligent conduct.
- (b) §42401: increase the maximum civil penalty for a violation of an Abatement Order to \$50,000, and require that the person must establish that the violation was not the result of intentional or negligent conduct.

Director Corica questioned whether the \$50,000 penalty would apply to large companies only, stating smaller businesses would be forced to go out of business if they were assessed a fee of \$50,000 a day; adding that he felt the current \$25,000 per day penalty was steep.

Mr. Feldstein explained that the recommended amounts were maximum penalties, and not necessarily the amount the District would pursue; and that there were other factors involved. Director E. Campbell questioned whether the recommendations had been discussed with industry; stating the \$25,000 increase was a very aggressive move by the District. Mr. Feldstein explained the report was a proposal; and if the Board approved, the next step would be to seek a legislator to sponsor the bill; adding that there would be hearings on the proposal in Sacramento.

Director Eshoo arrived at 9:58 a.m.

Continuing her report, Director Hughan stated:

- (c) §39674: add that violation of a district rule or regulation limiting the emission of toxic air contaminants identified by the State Board was also liable for the \$10,000 civil penalty; and to support AB 3153 (Tanner). There was considerable discussion regarding the need to raise the penalty fee; the need to cover all bases with industry; and the fact that Assemblyman Robert Campbell would be asked to sponsor a spot bill.

Director Powers arrived at 10:00 a.m.

There was considerable discussion regarding the proposal, after which Chairperson Campbell called for public presentation, and the following individual came forward:

DANIEL V. PHELAN  
BALIA  
SAN FRANCISCO, CALIFORNIA

stated BALIA regarded the proposal as very serious; that they had spent hundreds of millions of dollars to help the District reduce the ozone level, and though they though they felt this action was Draconian, they were prepared to cooperate.

Director Hughan moved the recommendation regarding §39674 be approved; seconded by Director Clevenger; carried on roll call:

AYES: BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER, CORICA,  
DAVIS, DIRIDON, ESHOO, GONZALEZ, HARBERSON, HUGHAN,  
NICOLOPULOS, POWERS, WILSON.

NOES: NONE.

ABSENT: ARAMBURU, HILLIGOSS, McPEAK, OGAWA, WHITE.

Director Hughan moved §42402 be approved; seconded by Director Cooper. After discussion, Director Gonzalez offered a substitute motion to raise the maximum penalty to \$2,500 for violations of an emission limit...; seconded by Director Corica. The motion **FAILED** after roll call:

AYES: E. CAMPBELL, CORICA, GONZALEZ, HUGHAN, NICOLOPULOS.

NOES: BRITT, S. CAMPBELL, CLEVINGER, COOPER, DAVIS, DIRIDON, ESHOO, HARBERTSON, POWERS, WILSON.

ABSENT: ARAMBURU, HILLIGOSS, McPEAK, OGAWA, WHITE.

Chairperson Campbell called for the vote on the original motion, which carried on roll call:

AYES: BRITT, S. CAMPBELL, CLEVINGER, COOPER, DAVIS, DIRIDON, ESHOO, GONZALEZ, HARBERTSON, HUGHAN, NICOLOPULOS, POWERS, WILSON.

NOES: E. CAMPBELL.

ABSENT: ARAMBURU, CORICA, HILLIGOSS, McPEAK, OGAWA, WHITE.

Director Hugan moved §42401 be approved as recommended; seconded by Director Cooper; carried on roll call:

AYES: BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER, DAVIS, DIRIDON, ESHOO, GONZALEZ, HARBERTSON, HUGHAN, NICOLOPULOS, POWERS, WILSON.

NOES: CORICA.

ABSENT: ARAMBURU, HILLIGOSS, McPEAK, OGAWA, WHITE.

Director Hugan reviewed the Committee's recommendation on pending legislation, and made the following motions:

- AB 2759 (Eaves): support, if amended; seconded by Director Clevenger; carried unanimously.
- SB 712 (Green): oppose, with comments; seconded by Director Cooper; carried unanimously.
- AB 2203 (Cortese): support, seconded by Director E. Campbell, carried unanimously.

**PUBLIC HEARING TO CONSIDER AMENDMENTS TO REGULATION 8,  
RULE 11 REGARDING CORRECTION OF AN INADVERTENT ERROR**

Chairperson Campbell opened the public hearing at 10:50 a.m.; and Mr. Powell presented the Clerk with nine Affidavits of Notice of Public Hearing.



Mr. Hess presented the APCO's report entitled, Public Hearing on Amendments to Regulation 8, Rule 11, Metal Container, Closure and Coil Coatings, dated February 5, 1990, stating the rule was amended on September 20, 1989 to correct deficiencies identified by EPA during review of the State Implementation Plan (SIP); that during the revision, the addition of §302 inadvertently resulted in an unintended impact on can and container industries; and the proposed amendment more clearly defined staff's intent.

Chairperson Campbell called for public testimony, and there was none.

Director Gonzalez moved the public hearing be closed; seconded by Director Hughan; carried unanimously. Director Cooper moved the adoption of the staff recommendations; seconded by Director Davis; carried on roll call:

AYES: E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER, CORICA, DAVIS,  
DIRIDON, ESHOO, GONZALEZ, HARBERSON, HUGHAN, NICOLOPULOS,  
POWERS, WILSON.

NOES: NONE.

ABSENT: ARAMBURU, BRITT, HILLIGOSS, McPEAK, OGAWA, WHITE.

Adopted **Resolution No. 1933**, *In the Matter of Amending Rule 11 of Regulation 8 Relating to Metal Container, Closure and Coil Coating.*

#### REPORT OF AIR POLLUTION CONTROL OFFICER

MILTON FELDSTEIN

Mr. Feldstein stated a conference on waste management in the 1990's would be held at the Cathedral Hill Hotel on April 10-11, 1990; and the Board was invited.

\* \* \*

Mr. Feldstein distributed a handout entitled, Growth Management in California: A Policy Statement of the California Association of Councils of Governments - Second Revised Draft, dated February 1990.

Stating the proposal was very critical, Director Hughan requested a letter be written to the staff of the regional planning committee and suggested the Board take a position to support agreement among ABAG, MTC and the District on the distribution of auto registration fees. Director Hughan noted a meeting regarding this document would be held this afternoon, and so the letter should be included right away. Mr. Powers indicated he would clarify the use of registration fee funds.

There was considerable discussion regarding the intent of the document. Director Gonzalez noted the transportation authorities were not included in the document, questioning whether they could be added. Director Powers stated he felt the transportation authorities were included by virtue of being in the cities and counties. Director Gonzalez stated he hoped the Board would have the benefit of a formal presentation.

Mr. Feldstein stated staff had conducted a community meeting in Rodeo on March 5; that Supervisors Fahden (Contra Costa); Davis (Solano); McPeak (Contra Costa), Powers (Contra Costa) and Dr. Wendell Brunner, County Health Officer, and James Sepulveda, Deputy District Attorney, were in attendance.

Director Davis stated the community raised the issue regarding fines and penalties; that staff had prepared a very good presentation outlining the history of Pacific Refining, and that the public's general attitude was that they wanted the facility closed down. Director Davis stated industry should be well-advised that they need to conform to the odor regulation; questioning if it was appropriate for the Board to send a letter to the various agencies and ask them to consider being a buffer between the community and the facility. Director Wilson suggested that perhaps the Board could send a letter to the city councils regarding the general plans, and suggest they consider the kind of industry that they allow to be built around a neighborhood, or to send a letter to the planning directors. Chairperson Campbell noted that the letter should go to the counties also. Director Powers suggested that the matter be referred to LAFCO because they have the power to set forth a plan that would address planning and development.

#### CHAIRPERSON'S REPORT

SHIRLEY CAMPBELL

Chairperson Campbell stated she had attended the ribbon cutting ceremony of California's first natural gas dispensing station, and that it was very interesting.

#### BOARD MEMBERS' COMMENTS

There were none.

#### TIME AND PLACE OF NEXT MEETING

9:30 A.M., Wednesday, March 21, 1990, 939 Ellis Street, San Francisco, California.

#### ADJOURNMENT

The meeting adjourned at 11:27 a.m.

Respectfully submitted,

CAROL BRADLEY  
CLERK OF THE BOARDS

CB:jc

**AIR QUALITY MANAGEMENT DISTRICT**  
939 ELLIS STREET  
SAN FRANCISCO, CALIFORNIA 94109



Inst of Governmental Studies  
University of California  
100 Morse Hall  
Berkeley, CA 94720

**FIRST CLASS MAIL**



A/581  
Mar. 21, 1990

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
939 ELLIS STREET  
SAN FRANCISCO, CALIFORNIA 94109  
771-6000

**BOARD OF DIRECTORS REGULAR MEETING**

9:30 A.M., WEDNESDAY, MARCH 21, 1990

INSTITUTE OF GOVERNMENTAL  
STUDIES LIBRARY

**MINUTES**

APR 9 1990

UNIVERSITY OF CALIFORNIA

**BOARD MEMBERS PRESENT**

SHIRLEY CAMPBELL, CHAIR  
ALBERT ARAMBURU  
HARRY BRITT  
EDWARD CAMPBELL  
MARTHA CLEVINGER

PAUL COOPER  
OSBY DAVIS  
ROD DIRIDON  
JIM HARBERTSON  
PATRICIA HILLIGOSS

ROBERTA HUGHAN  
GUS NICOLOPULOS  
FRANK OGAWA  
TOM POWERS  
SUSANNE WILSON

**BOARD MEMBERS ABSENT**

CHUCK CORICA  
ANNA ESHOO

JIM GONZALEZ  
SUNNE MCPeAK

BOB WHITE

**ADVISORY COUNCIL MEMBERS PRESENT**

CAROLYN BOVAT  
JACK C. OPPENHEIMER

**STAFF MEMBERS PRESENT**

THOMAS BELL  
DIRECTOR OF ADMINISTRATIVE SERVICES  
JOAN DRACOTT  
PUBLIC INFORMATION OFFICER  
JAMES R. GUTHRIE  
DIRECTOR OF ENFORCEMENT DIVISION  
PETER HESS  
DEPUTY AIR POLLUTION CONTROL OFFICER

ELLEN LINDER  
ADVANCED PROJECTS ADVISOR  
TOM PERARDI  
DIRECTOR OF PLANNING  
JOHN POWELL  
LEGAL COUNSEL  
CAROL BRADLEY  
CLERK OF THE BOARDS

**CALL TO ORDER**

Chairperson Campbell called the meeting to order at 9:35 a.m., and announced that the Board would immediately meet in Closed Session to instruct designated representatives pursuant to Government Code Section 54957.6; and reconvened the meeting at 10:30 a.m.

**INTRODUCTION OF ADVISORY COUNCIL MEMBERS**

The Clerk introduced Ms. Carolyn Bovat.

**PUBLIC PRESENTATION**

There was none.

**APPROVAL OF MINUTES OF MARCH 7, 1990****DIVISION MONTHLY REPORTS**

The following Division monthly reports were presented: Administrative Services, Appropriation Statement and Cash Position Ending January 31, 1990, and Enforcement, Legal Counsel, Permit Services, Planning, Public Information & Education and Technical Services, for the period February 1-28, 1990.

**COMMUNICATIONS**

PAUL COOPER, SECRETARY

The following communications were presented:

(3/7/90)  
ORA HUTH, PRESIDENT  
LEAGUE OF WOMEN VOTERS OF THE BAY AREA  
ERNESTINE DeFALCO, PROJECT MANAGER  
BAY AREA *MONITOR*  
LAFAYETTE, CALIFORNIA

submitting to the Board of Directors a request for approval of a renewal of BAAQMD's contract with the League of Women Voters for the Bay Area; specifically requesting \$16,000 from the District to support the League's publication, the Bay Area *MONITOR*. (3/9/90)

(3/6/9)

THE HON. NANCY FAHDEN  
SUPERVISOR - DISTRICT TWO  
CONTRA COSTA COUNTY  
MARTINEZ, CALIFORNIA

complimenting District staff on its response to the complaints of Rodeo residents regarding Pacific Refinery at the Rodeo Area Air Quality meeting of March 5, 1990. (3/12/90)

(3/9/90)

DAVID HOWEKAMP, DIRECTOR  
AIR TOXICS DIVISION  
U.S. ENVIRONMENTAL PROTECTION AGENCY REGION IX  
SAN FRANCISCO, CALIFORNIA

regarding recent modifications made by the District to the BAAQMD State Implementation Plan (SIP) for maintaining the ozone standard. (3/13/90)

(3/14/90)

LAW OFFICES OF GOLDFARB & LIPMAN  
SAN FRANCISCO, CALIFORNIA

enclosing Legal Notice of Public Hearing on Draft Environmental Impact Report for the Ravenswood Industrial Area Redevelopment Project. (3/16/90)

(3/6/90)

THE HON. ALAN CRANSTON  
UNITED STATES SENATE  
WASHINGTON, D.C.

regarding S. 1630, the Clean Air Restoration and Standards Attainment Act of 1989, and air quality legislation in general. (3/19/90)

(3/16/90)

HOWARD COHEN  
SAN JOSE, CALIFORNIA

regarding odorous emissions at the Becton-Dickinson facility. (3/20/90)

(3/10/90)

JEAN SIRI  
WEST CONTRA COSTA COUNTY CONSERVATION LEAGUE

submitting commentary on increasing statutory penalties for violations of air quality regulations and dividing the funds acquired therefrom between the Bay Area Air Quality Management District and the District Attorney's Office. (3/20/90)



3/8/90)  
STEVE GHISELLI  
PROJECT MANAGER  
LINCOLN PROPERTY COMPANY, INC.  
FOSTER CITY, CALIFORNIA 94404

regarding odors emitted from Evergreen Oil, Inc., in Newark California in proximity to the Lincoln Newark Business Park. (3/10/90)

#### APPROVAL OF RESOLUTION REQUESTED BY DISTRICT TREASURER'S OFFICE

The APCO's report entitled, Approval of Resolution Requested by District Treasurer's Office, dated March 14, 1990 was presented.

Adopted **Resolution No. 1934**, *In the Matter of Notifying the County Treasurer and County Controller of San Mateo County of Authorized Signatures.*

#### REJECTION OF CLAIMS AGAINST THE DISTRICT

The APCO's two reports entitled, Rejection of Claims Against the District, dated March 14, 1990 were presented.

#### TRANSFER OF FUNDS

The APCO's undated report entitled, Transfer of Funds, was presented.

Adopted **Resolution No. 1935**, *In the Matter of Approving a Transfer of Funds Between Accounts.*

#### APPROVAL FOR PURCHASE ORDERS IN EXCESS OF \$15,000

The APCO's report entitled, Approval of New Vehicle Purchase Orders, dated March 14, 1990 was presented.

Adopted **Resolution No. 1936**, *In the Matter of Authorizing the Air Pollution Control Officer to Sign Purchase Orders in Excess of \$15,000 for Vehicles.*

#### SET PUBLIC HEARINGS

The APCO's report entitled, Setting of Public Hearings - Conflict of Interest Statement, dated March 14, 1990 was presented, setting public hearings for:

May 16, 1990 - To Consider Adoption of Amendments to Regulation 3, Fees.

April 18, 1990 - Pertaining to Priorities for Conducting Risk Assessments.

**REFUNDS**

The APCO's report entitled, Refunds, March 12, 1990 was presented.

**NOTICE OF INTENT TO AMEND THE ADMINISTRATIVE CODE**

The APCO's undated report entitled, Notice of Proposed Changes to District Administrative Code, was presented.

**APPROVAL FOR OUT-OF-STATE TRAVEL**

The APCO's report entitled, Approval for Out-of-State Travel, dated March 14, 1990 was presented.

Director E. Campbell moved the adoption of the above Consent Calendar items; seconded by Director Aramburu; carried on roll call:

AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER,  
DAVIS, DIRIDON, HARBERSON, HILLIGOSS, HUGHAN, NICOLOPULOS,  
OGAWA, POWERS, WILSON.

NOES: NONE.

ABSENT: CORICA, ESHOO, GONZALEZ, McPEAK, WHITE.

**STATUS REPORT ON CBE/SIERRA CLUB LAWSUIT**

Mr. Powell reminded the Board that Judge Henderson had already ruled with respect to the consumer solvent issue and reciprocating engines; stating he had now issued an Opinion that essentially memorialized these actions, as well as addressed the issue of whether the District was obligated to adopt specific control measures in the Plan, in addition to adopting contingency measures that were mentioned in the Plan. Mr. Powell stated the Judge had agreed that the Plan did require contingency measures, but that the District had adopted a number of those measures, and it was not appropriate to consider adoption of any additional contingency measures.

Mr. Powell stated the one matter pending before the Judge was the issue of the permit moratorium requested by the Sierra Club, and that it appeared their request was much more narrowly focused than before. Mr. Powell noted the issues regarding MTC were still in the discovery phase.

Continuing, Mr. Powell stated another lawsuit had been filed in Los Angeles by the Dunn Edwards Corporation and 20 paint companies; that it named South Coast, ARB, BAAQMD, CAPCOA, the Technical Review Group (for ARB and CAPCOA), Santa Barbara, Yolo-Solano, Colusa and Imperial air pollution control districts; and the action was solely related to ARB-approved architectural coating regulations adopted by the District and South Coast in January 1990. Mr. Powell stated the suit was based on 16 different causes of action, eight of which affect the District; that the most substantial claim was that CEQA applies to the adoption of air pollution regulations and it had not been complied with in the matter; and that the action also raised a number of state constitutional-type questions, including the one-person, one-vote make-up of the District and South Coast Boards.

Mr. Powell stated staff felt the requested remedies were inconsistent with the actions Judge Henderson was asking in the federal suit by CBE/Sierra Club; that staff had notified the federal court of the latest lawsuit and indicated there may be a need in the future to request action to protect the federal ruling; and that staff was preparing to file papers in Los Angeles to change the venue of the case, hopefully to San Francisco.

Chairperson Campbell directed staff to prepare an outline of the new lawsuit for the Board's review.

#### REPORT OF AIR POLLUTION CONTROL OFFICER

MILTON FELDSTEIN

Noting the absence of the APCO, Chairperson Campbell announced that Mr. Feldstein was attending a conference in New Zealand.

Mr. Hess presented his report entitled, AB 4242 (Willie Brown), dated March 14, 1990 stating the report summarized the bill by Speaker Brown which proposed to create in the seven urban areas of California 'superagency' to supersede the air districts, the regional water quality control agency Boards, the regional transportation planning agency (MTC); the Council of Governments, ABAG and local agency formation commissions; that the air district would not be a separate agency and there would not be a District Board of Directors. Mr. Hess stated the new regional agency would automatically inherit the District's rules and regulations, and the District's day-to-day operations would continue under a Deputy Director who would report to the Director of the new regional agency.

There was brief discussion regarding the proposal, and Director Aramburu requested the District's lobbyist, Mr. Gerald Desmond, be directed to track the bill to help the Board formulate a position.

Director Powers suggested the bill would probably not be signed by the Governor this year, but that there were statewide discussions being held on this issue, and it was his feeling that regional government would eventually come to pass; further recommending that the Board's Legislative Committee might want to begin discussing the issue, and to interface with the other affected agencies to determine how they will work together in the future.



Director Diridon stated the newly-created Bay Vision 2020 group was currently working on a plan much like the bill proposed by Speaker Brown; and that all the other regional agencies and local governments should be requested to send letters to Sacramento, which would indicate confidence in the Bay Vision 2020 process, and suggest no action be taken until the process was complete; adding that perhaps the letter should recommend the Speaker refer the bill to Bay Vision 2020 for comment.

After discussion, Director Aramburu moved that the matter be referred to the Legislative Committee for discussion and recommendation, and to coordinate with Mr. Desmond; seconded by Director Hughan, carried unanimously.

Mr. Powers referred to a publication entitled, California 2000: Getting Ahead of the Growth Curve - The Future of Local Government in California, stating the document had been prepared by the Assembly Office of Research in Sacramento, and recommended copies be obtained for the Board's review; adding the publication contained ideas similar to those of AB 4242.

#### CHAIRPERSON'S REPORT

SHIRLEY CAMPBELL

There was no report.

#### BOARD MEMBERS' COMMENTS

Director Nicolopoulos raised questions regarding the smog control costs, stating he did not believe the inspections could be done every year.

\* \* \*

Director Diridon announced that the Resource Recovery Facilities Committee meeting of March 22 had been cancelled, and that the Committee would be meeting at 10:00 a.m., Thursday, April 19.

\* \* \*

Director Powers announced that he had attended a meeting in Riverside County last week and met the Chair of the Riverside Air Board there who noted they had experienced 170 days of violations to the smog law, and that most of the bad air was coming from other cities.

#### TIME AND PLACE OF NEXT MEETING

9:30 A.M., Wednesday, April 4, 1990, 939 Ellis Street, San Francisco, California.

ADJOURNMENT

The meeting adjourned at 11:01 a.m.

Respectfully submitted,

CAROL BRADLEY  
CLERK OF THE BOARDS

CB:jc

A1581  
Apr. 4, 1990

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
939 ELLIS STREET  
SAN FRANCISCO, CALIFORNIA 94109  
771-6000

**BOARD OF DIRECTORS REGULAR MEETING**

9:30 A.M., WEDNESDAY, APRIL 4, 1990

**MINUTES**

INSTITUTE OF GOVERNMENTAL  
STUDIES LIBRARY

APR 24 1990

**BOARD MEMBERS PRESENT**

SHIRLEY CAMPBELL,  
CHAIRPERSON  
ALBERT ARAMBURU  
HARRY BRITT  
EDWARD CAMPBELL  
MARTHA CLEVINGER  
PAUL COOPER

CHUCK CORICA  
OSBY DAVIS  
ROD DIRIDON  
ANNA ESHOO  
JIM GONZALEZ  
JIM HARBERSON

PATRICIA HILLIGOSS  
ROBERTA HUGHAN  
SUNNE MCPeAK  
GUS NICOLOPULOS  
FRANK OGAWA  
TOM POWERS  
SUSANNE WILSON

UNIVERSITY OF CALIFORNIA

**BOARD MEMBERS ABSENT**

BOB WHITE

**ADVISORY COUNCIL MEMBERS PRESENT**

CAROLYN BOVAT  
JOHN HOLTZCLAW, PhD

ROBERT NISBET  
JACK OPPENHEIMER

DANIEL PHELAN

**STAFF MEMBERS PRESENT**

THOMAS BELL  
DIRECTOR OF ADMINISTRATIVE SERVICES  
LAURENCE G. CHASET  
SENIOR ASSISTANT COUNSEL  
JAMES R. GUTHRIE  
DIRECTOR OF ENFORCEMENT DIVISION  
PETER HESS  
DEPUTY AIR POLLUTION CONTROL OFFICER  
JIM KARAS  
AIR QUALITY ENGINEER MANAGER  
TERESA GALVIN LEE  
PUBLIC INFORMATION OFFICER

DARIO LEVAGGI  
DIRECTOR OF TECHNICAL SERVICES  
EDWARD W. McHUGH  
DIRECTOR OF PUBLIC INFORMATION  
TOM PERARDI  
DIRECTOR OF PLANNING  
JOHN POWELL  
LEGAL COUNSEL  
JOHN SWANSON  
DIRECTOR OF PERMIT SERVICES  
CAROL BRADLEY  
CLERK OF THE BOARDS



**CALL TO ORDER**

Chairperson Campbell called the meeting to order at 9:50 a.m.

**INTRODUCTION OF ADVISORY COUNCIL MEMBERS**

The Clerk introduced John Holtzclaw, PhD and Messrs. Robert Nisbet and Daniel Phelan.

**PUBLIC PRESENTATION**

There was none.

**APPROVAL OF MINUTES OF MARCH 21, 1990****COMMUNICATIONS**

PAUL COOPER, SECRETARY

The following communications were presented:

(3/24/90)  
T. J. NELSON  
CROCKETT, CALIFORNIA

proffering praise and respect for the District Air Pollution Control Officer and his work.  
(3/26/90)

(3/23/9)  
CATHY CHOU  
BERKELEY, CALIFORNIA

submitting photocopy of letter to Jananne Sharpless, Chair, California Air Resources Board, urging adoption of various air pollution control measures and an improved Inspection & Maintenance program for vehicles. (3/23/90)

(3/19/90)  
CAROLYN BOVAT  
PROJECT DIRECTOR  
AMERICAN LUNG ASSOCIATION OF CALIFORNIA

encouraging endorsement of Clean Air Week, May 7-13, 1990, and "Don't Drive Alone" Day, May 10, 1990. (3/21/90)

(3/20/90)

KARL SHEPHERD  
ASSISTANT REDEVELOPMENT COORDINATOR  
REDEVELOPMENT AGENCY  
CITY OF EAST PALO ALTO, CALIFORNIA

regarding the availability for public review of the University Circle Redevelopment Plan Draft Supplemental Environmental Impact Report. (3/20/90)

(3/17/90)

ROBERT S. ALLEN  
LIVERMORE, CALIFORNIA

referring to Chairperson Campbell's March 20, 1990 editorial in the SF Examiner, and enclosing a photocopy of his letter to MTC regarding the establishment of a \$0.30 regional gasoline tax. (3/26/90)

(3/22/90)

JAMES J. MORGESTER, CHIEF  
COMPLIANCE DIVISION  
CALIFORNIA AIR RESOURCES BOARD  
SACRAMENTO, CALIFORNIA

announcing a meeting of the ARB and Abrasive Blasting Advisory Committee set for April 17-18, 1990. (3/23/90)

(3/30/90)

JAY GUNKELMAN  
CROCKETT, CALIFORNIA

regarding reduction of chloroform from the Rodeo Pacific Refining facility through replacement of its water cooling towers with dry cooling equipment. (4/2/90)

(4/2/90)

PETER HESS  
DEPUTY AIR POLLUTION CONTROL OFFICER  
BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
SAN FRANCISCO, CALIFORNIA

responding to March 10 letter of Mrs. Jean Siri, West County Toxics Coalition, on proposed increases to penalty sanction schedule. (4/2/90)

(4/3/90)  
Jananne Sharpless  
Chair  
Air Resources Board  
Sacramento, California

announcing the meeting of the San Joaquin Valley Air Quality Study Policy Committee for April 6 at 10:00 a.m., and enclosing the draft minutes of the March 2, 1990 Policy Committee meeting. (4/4/90)

(4/4/90)  
ELISABETH R. GUNTHER, ESQ.  
HELLER, EHRMAN, WHITE & McAULIFFE  
SAN FRANCISCO, CALIFORNIA

submitting commentary on proposed Regulation 9, Rule 1, Section 313. (4/4/90)

#### REFUNDS

The APCO's report entitled, Refunds, dated March 29, 1990 was presented.

#### APPROVAL OF AMENDMENTS TO ADMINISTRATIVE CODE

The APCO's report entitled, Approval of Changes to District Administrative Code, dated March 28, 1990 was presented.

Adopted **Resolution No. 1937**, *In the Matter of Amending the Administrative Code*.

#### TRANSFER OF FUNDS

The APCO's undated report entitled, Transfer of Funds, was presented.

Adopted **Resolution No. 1938**, *In the Matter of Approving a Transfer of Funds Between Accounts and a Transfer from the Reserve for Contingencies*.

#### APPROVAL FOR OUT-OF-STATE TRAVEL

The APCO's report entitled, Approval for Out-of-State Travel, dated March 28, 1990 was presented.

Director Ogawa moved the adoption of the above Consent Calendar items; seconded by Director Harberson; carried on roll call:



AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER,  
CORICA, DIRIDON, ESHOO, GONZALEZ, HARBERSON, HILLIGOSS,  
HUGHAN, McPEAK, NICOLOPULOS, OGAWA, POWERS, WILSON.

NOES: NONE.

ABSENT: DAVIS, WHITE.

**PUBLIC HEARING TO CONSIDER AMENDMENTS TO REGULATION 9  
REGARDING SULFUR REMOVAL OPERATIONS AT PETROLEUM REFINERIES**

Chairperson Campbell opened the public hearing at 9:52 a.m., and announced that as a result of comments received at the April 3, 1990 workshop, the proposed rule before the Board had been amended further, thus it could not be adopted today; and the public hearing would be continued to May 2, 1990; adding that those public members wishing to defer their testimony until that time were welcome to do so. Mr. Powell presented the Clerk with nine Affidavits of Notice of Public Hearing.

Mr. Hess presented the APCO's report entitled, Public Hearing on Proposed Amendments to Regulation 9, Rule 1, Pertaining to Sulfur Removal Operations at Petroleum Refineries, dated March 28, 1990; stating the proposed rule would require the use of sulfur recovery units at petroleum refineries which use other than sweet crude oil. Mr. Hess stated that over the past years the District had received numerous complaints regarding Pacific Refining Company (PRC); that staff had been working with the company since 1985 and had achieved a reduction of the refinery's odorous emissions; that the community residing near the refinery continued to complain, and staff was proposing this rule which was designed to be a first step in a program to reduce odors and other emissions from petroleum refineries.

Director Davis arrived at 9:54 a.m.

Mr. Hess continued his report stating meetings had been held with PRC and other refineries, in addition to holding workshops as late as April 3 at which time comments regarding staff's original proposal had been received and incorporated into the rule for the Board's consideration, and adoption at a future meeting.

Referring to a 10-item report entitled, Fact Sheet, Regulation 9, Rule 1, Amendments, dated April 4, 1990, Mr. Karas stated the proposed rule was intended to bring a chronic public nuisance under control; and reviewed the contents of the report; concluding by stating the rule required low sulfur crude usage or installation of sulfur removal and recovery equipment, effective October 1, 1990.

Director McPeak recalled the community meeting held in Rodeo March 5 regarding PRC, stating the Board members attending the meeting had agreed on a set of recommendations, and that this rule was consistent with that commitment; and that since the rule applies to all except the smallest refineries and will address the problem of high sulfur crude being run by any refinery anywhere, they had promised PRC in particular that they would recommend the Board of Directors support the APCO in his position on the PRC matter currently pending before the District's Hearing Board; and that the ultimate goal was to have PRC totally modernize or shutdown.

Mr. Hess added that all of the other large refineries in the Bay Area have the sulfur equipment installed that meets these requirements; and that the order before the Hearing Board is for the remedies included in Regulation 9, Rule 1; and that staff was involved in discussions with PRC regarding other control measures.

Director McPeak noted that the Directors attending the Rodeo public meeting had also informed the community that the Board would be pursuing a stepped up interpretation of existing law for nuisance odors.

There was Board discussion regarding the parties working together cooperatively; other regulatory items for this refinery being brought before the Board; and the legality of such a regulation.

Chairperson Campbell called for public testimony, and the following individuals spoke:

Henry Clark  
West County Toxics Coalition  
Richmond

stating the proposed regulation had some merits which the Coalition supported; but they did not feel it went far enough; and should include the comprehensive list agreed to be the Directors attending the Rodeo community meeting.

Irene Pijoan  
Resident of Rodeo

stating the residents of Rodeo needed real mechanical rules addressing not only sulfur recovery, but also wastewater, eliminating flaring and blow-by noise, and venting into the atmosphere.

Director McPeak interjected that the proposed rule is limited to the sulfur recovery; and that it is recommended the Board endorse the Abatement Order being sought by the APCO which is the comprehensive list of requirements that includes the wastewater treatment covering process, the flanges, valves, etc. Director McPeak requested staff distribute to the Board copies of the listing that was proposed at the Rodeo Community meeting on March 5.

Diana Patrick  
Representing Contra Costa County  
Supervisor Nancy Fahden  
Martinez

urging Board to adopt the proposed rule; and not have the matter go through the court system.

Terrance Marrinan  
Rodeo Citizens Association  
Contra Costa County - Rio District

representing 8,500 community members who felt the proposed rule would not solve the problem.

Richard Varner  
President & CEO  
Pacific Refining Company  
Long Beach, CA

reaffirming commitment to correcting the odor issue; and urging Board to reconsider the proposed rule and leave the matter to be resolved by the Hearing Board.

Alan L. Siegner  
Independent Oil Consultant  
Rancho Palos Verdes, CA

identifying all crude oil in the world that will need sulfur recovery requirement; stating the rule would be very costly to refineries.

There was discussion regarding the public testimony, and Director Aramburu requested staff be directed to submit an array of choices of actions the Board could take to promulgate a rule that is all inclusive when the matter appeared on the agenda May 2; and Director McPeak moved the Board declare its intent to (1) endorse the items listed on the report entitled, Odor Controls, Pacific Refining, dated March 5, 1990, and instruct staff to pursue the items in any manner that is expeditious, including (a) direct negotiation, (b) stipulated agreement, (c) court action, and (d) proceedings before the Hearing Board; (2) that on a regular basis (at least every 60 days) staff submit a report to the Board regarding PRC; (3) that the Board should declare its intent to adopt Regulation 9, Rule 1, but leave the effective date open; (4) request staff to promulgate a rule that would apply to all refineries with those items that have been listed with respect to what is needed to control odors; and (5) that the Directors would return to Rodeo in one year to hold another public hearing; seconded by Director Cooper.

After considerable discussion regarding the motion, Director Wilson suggested the maker and seconder of the motion consider separating those items which applied to PRC specifically (Numbers 1, 2, 4 and 5), from the item regarding the Board's intent to adopt the rule. Directors McPeak and Cooper agreed, and upon roll call, the motion to adopt Item Numbers 1, 2, 4 and 5 carried:



AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER, DAVIS, DIRIDON, ESHOO, HARBERSON, HILLIGOSS, HUGHAN, McPEAK, NICOLOPULOS, OGAWA, POWERS, WILSON.

NOES: CORICA.

ABSENT: GONZALEZ, WHITE.

Chairperson Campbell called for the vote on the second motion, and Director Powers offered a substitute motion to table the motion until the next meeting; seconded by Director Corica; and upon roll call, the motion passed:

AYES: ARAMBURU, E. CAMPBELL, S. CAMPBELL, CLEVINGER, CORICA, HILLIGOSS, HUGHAN, NICOLOPULOS, OGAWA, POWERS.

NOES: BRITT, COOPER, DAVIS, DIRIDON, ESHOO, HARBERSON, McPEAK, WILSON.

ABSENT: GONZALEZ, WHITE.

Chairperson Campbell noted the hearing was continued to May 2, 1990.

#### STAFF REPORT ON UNITED TECHNOLOGY CORPORATION

Director Wilson announced that the subject facility was located in her supervisorial district; that unfortunately she had to depart the meeting, and had notified those public members who had come to testify, and that Director Diridon would act on her behalf.

Mr. Chaset presented the APCO's report entitled, United Technologies Waste Propellant Open Burning Operation, dated March 29, 1990 which outlined background information on the facility's history, operation, propellant waste, safety, chronology of problems, and responses to questions raised by Mr. Ernest Goitein of the Peninsula Conservation Center at the February 21, 1990 Board meeting. Mr. Chaset stated UTC had been operating six permitted waste propellant open burn "pits" at their plant in San Jose since 1963; that four additional pits were excluded from permit requirements in 1984 provided that all waste burned was produced or generated on site; that in 1986 the District learned UTC had been importing rocket motor segments and burning the waste propellant on site, and informed UTC they no longer had legal authority to operate the four additional pits until sufficient information was submitted to the District to complete the application.

Mr. Chaset concluded his report stating during the summer staff would be recommending to the Board that the exclusion for "open outdoor fires" be deleted in the amendment to Regulation 1; and if approved open burning operations such as UTC would be subject to the District's permit requirements which would enable the District to carefully scrutinize the air quality and public health impacts of the open burning; adding that currently there is no District regulation that specifically covers this type of operation; and the potential health risks at UTC would be reviewed under the AB 2588 "Toxic Hot Spots" Inventory.

Chairperson Campbell called for public testimony, and the following individuals spoke:

Ernest Goitein  
Peninsula Conservation Center  
Atherton

using slides and written testimony, offered a six-point recommendation designed to phase out burning of hazardous waste.

John Beall  
United Technologies Conversion Project  
San Jose

offering over 2,000 signatures recommending the District deny the permits for open burning at UTC.

Jan Smith  
Resident  
Morgan Hill

recommending use of the six pits be ceased until further scrutiny, as there is insufficient data to rule out health risks to the public.

After discussion, Director Diridon moved the discussion be tabled until the April 18 regular Board meeting; seconded by Director Cooper; carried unanimously.

**STATUS REPORT ON LITIGATION**

Mr. Powell's report entitled, Status Report on Litigation, dated April 3, 1990 was presented.

**REPORT OF AIR POLLUTION CONTROL OFFICER**

MILTON FELDSTEIN

There was none.

**CHAIRPERSON'S REPORT**

SHIRLEY CAMPBELL

Selection of 1990 Bay Area Air Quality  
Management District Poster Contest Winner

Chairperson Campbell announced the following winners in the Earth Day 1990 Poster Contest:

## Kindergarten - 6th Grade:

Honorable Mention: 4th = No. 2 - Jefferson, San Francisco

3rd = No. 9 - Kiwanas, Santa Rosa

2nd = No. 6 - Newark, Newark

Winner: 1st = No. 1 - El Centro, Napa

## 7th - 12th Grade:

Honorable Mention: 4th = No. 24 - McAteer High, San Francisco

3rd = No. 22 - McAteer High, San Francisco

2nd = No. 21 - Franklin Jr. High, Vallejo

Winner: 1st = No. 26 - Pioneer High, San Jose

Chairperson Campbell noted the winning posters would be forwarded to Washington, D.C. to be judged in the national contest.

\* \* \* \* \*

Chairperson Campbell announced that the California State Sand Blasting Advisory Committee would be meeting on April 17-18 in Sacramento; and that Director Wilson was the Board's representative.

**BOARD MEMBERS' COMMENTS**

Director Diridon announced that the Ad Hoc Committee on Resource Recovery Facilities would meet at 10:00 a.m. on April 27 instead of April 19.

**TIME AND PLACE OF NEXT MEETING**

9:30 A.M., Wednesday, April 18, 1990, 939 Ellis Street, San Francisco, California.

**ADJOURNMENT**

The meeting adjourned at 12:23 p.m.

Respectfully submitted,

CAROL BRADLEY  
CLERK OF THE BOARDS

CB:jc



A1581  
Apr. 18, 1990

# BAY AREA AIR QUALITY MANAGEMENT DISTRICT

939 ELLIS STREET  
SAN FRANCISCO, CALIFORNIA 94109  
771-6000

## BOARD OF DIRECTORS REGULAR MEETING

9:30 A.M., WEDNESDAY, APRIL 18, 1990

INSTITUTE OF GOVERNMENTAL  
STUDIES LIBRARY

MAY 7 1990

UNIVERSITY OF CALIFORNIA

## MINUTES

### BOARD MEMBERS PRESENT

SHIRLEY CAMPBELL,  
CHAIRPERSON  
ALBERT ARAMBURU  
HARRY BRITT  
EDWARD CAMPBELL  
MARTHA CLEVINGER

PAUL COOPER  
OSBY DAVIS  
ROD DIRIDON  
ANNA ESHOO  
JIM GONZALEZ  
JIM HARBERSON

PATRICIA HILLIGOSS  
ROBERTA HUGHAN  
SUNNE McPEAK  
GUS NICOLOPULOS  
TOM POWERS  
SUSANNE WILSON

### BOARD MEMBERS ABSENT

CHUCK CORICA

FRANK OGAWA

BOB WHITE

### HEARING BOARD MEMBERS PRESENT

JAMES P. HUGHES, M.D.

### ADVISORY COUNCIL MEMBERS PRESENT

CAROLYN BOVAT  
DANIEL PHELAN

ALVIN GREENBERG, PhD

JACK OPPENHEIMER

### STAFF MEMBERS PRESENT

MILTON FELDSTEIN  
AIR POLLUTION CONTROL OFFICER  
THOMAS BELL  
DIRECTOR OF ADMINISTRATIVE SERVICES  
JAMES R. GUTHRIE  
DIRECTOR OF ENFORCEMENT DIVISION  
PETER HESS  
DEPUTY AIR POLLUTION CONTROL OFFICER  
STEVE HILL  
TOXICS SECTION MANAGER

DARIO LEVAGGI  
DIRECTOR OF TECHNICAL SERVICES  
EDWARD W. McHUGH  
DIRECTOR OF PUBLIC INFORMATION  
TOM PERARDI  
DIRECTOR OF PLANNING  
JOHN POWELL  
LEGAL COUNSEL  
JOHN SWANSON  
DIRECTOR OF PERMIT SERVICES

CAROL BRADLEY  
CLERK OF THE BOARDS

**CALL TO ORDER**

Chairperson Campbell called the meeting to order at 9:38 a.m. and announced that the Board would be going into Closed Session to instruct designated representatives pursuant to Government Code Section 54957.6, and to discuss litigation against the District pursuant to Government Code Section 54956.9. Mr. Powell clarified that the litigation against the District included (1) Citizens for a Better Environment (CBE, et al v. Deukmejian, et al, and the Sierra Club v. MTC et al), consolidated cases pending in U.S. District Court, San Francisco; (2) Dunn-Edwards Corp., et al v. South Coast AQMD et al, in Superior Court, County of Los Angeles; and (3) Ethel Dotson v. Bay Area Air Quality Management District, Court of Appeal, First Appellate District, Division Two. The Board reconvened to Regular Session at 10:12 a.m.

**INTRODUCTION OF ADVISORY COUNCIL MEMBERS**

The Clerk introduced Ms. Carolyn Bovat, Alvin Greenberg, PhD, and Messrs. Jack Oppenheimer and Daniel Phelan.

**PUBLIC PRESENTATION**

Chairperson Campbell introduced former Advisory Council member and current Air Resources Board (ARB) member John Lagarias.

**APPROVAL OF MINUTES OF APRIL 4, 1990****DIVISION MONTHLY REPORTS**

The following Division monthly reports were presented: Administrative Services Appropriation Statement and Cash Position, dated February 28, 1990, and Enforcement, Legal Counsel, Permit Services, Planning, Public Information & Education and Technical Services, for the period March 1-31, 1990.

**COMMUNICATIONS**

PAUL COOPER, SECRETARY

The following communications were presented:

(3/27/90)  
WENDEL BRUNNER, M.D.  
DIRECTOR OF PUBLIC HEALTH  
CONTRA COSTA COUNTY HEALTH SERVICES DEPARTMENT  
MARTINEZ, CALIFORNIA

regarding the March 5 Rodeo community meeting at which Pacific Refining Company was discussed, joint sampling and analysis of emissions from that facility, and proposed new control equipment. (4/6/90)

(4/5/90)  
JEAN SIRI  
WEST CONTRA COSTA CONSERVATION LEAGUE  
EL CERRITO, CALIFORNIA

regarding increasing the levels of fines issued for violations of District emission regulations.  
(4/9/90)

(4/90)  
ORESTE M. VEVILACQUA, PhD  
EXECUTIVE EDITOR AND PUBLISHER  
ENVIRONMENTAL VEHICLES REVIEW  
OAKLAND, CALIFORNIA

enclosing and offering subscription to "Environmental Vehicles Review: A Monthly Update on Clean-Fuel Vehicle Developments," March 1990, Vol. I, Issue 1. (4/9/90)

(4/16/90)  
BAY AREA RAPID TRANSIT DISTRICT  
OAKLAND, CA 94604

inviting Board to Earth Day Big Bash Alternative Transportation Day, Thursday, April 19, 1990 at 11:30 A.M. on the Plaza Green, BART Administration Building, 800 Madison Street, Oakland, CA 94604

(4/16/90)  
COMMUNITY DEVELOPMENT AGENCY  
OF THE CITY OF HALF MOON BAY  
HALF MOON BAY, CA 94019

transmitting certain documents pursuant to Section 33327 of the California Community Redevelopment Law regarding the proposed North Wavecrest Redevelopment Project in the City of Half Moon Bay.

<b>ARB/EPA PROGRAM EVALUATION QUARTERLY PROGRESS REPORT</b>
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The APCO's report entitled, ARB/EPA Program Evaluation Quarterly Progress Report, dated April 10, 1990 was presented.

<b>REFUNDS</b>
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The APCO's report entitled, Refunds, dated April 9, 1990 was presented.



**TRANSFER OF FUNDS**

The APCO's report entitled, Transfer of Funds, dated April 11, 1990 was presented.

Adopted **Resolution No. 1939**, *In the Matter of Approving a Transfer of Funds from the Reserve for Contingencies.*

**ACCEPTANCE OF QUARTERLY REPORT OF ARB REPRESENTATIVE**

Director Hughan's report entitled, Quarterly Report of My Activities as an ARB Member, dated April 11, 1990 was presented.

**DISPOSAL OF OBSOLETE EQUIPMENT**

The APCO's report entitled, Disposal of Obsolete Equipment, dated April 11, 1990 was presented.

**SET PUBLIC HEARING FOR JUNE 6, 1990 TO CONSIDER ADOPTION OF REGULATION 8, RULE 49 REGARDING AEROSOL PAINTS**

The APCO's report entitled, Setting of Public Hearings - Conflict of Interest Notice, dated April 11, 1990 was presented.

**APPROVAL FOR OUT-OF-STATE TRAVEL**

The APCO's reports entitled, Approval for Out-of-State Travel, respectively dated April 11 and 18, 1990 were presented. Mr. Feldstein stated the April 18 report had inadvertently been omitted from the Board agenda packet mailed on April 11.

Director Eshoo moved the adoption of the above Consent Calendar items, as modified; seconded by Director Aramburu; carried on roll call:

AYES: ARAMBURU, BRITT, E. CAMPBELL, S. CAMPBELL, CLEVINGER, COOPER, DAVIS, DIRIDON, ESHOO, GONZALEZ, HARBERTSON, HILLIGOSS, HUGHAN, McPEAK, NICOLOPULOS, POWERS, WILSON.

NOES: NONE.

ABSENT: CORICA, OGAWA, WHITE.

**QUARTERLY REPORT OF HEARING BOARD****JAMES P. HUGHES, M.D.**

Dr. Hughes reviewed the Hearing Board report entitled, Hearing Board Quarterly Report: January - March 1990, dated April 18, 1990 stating the Hearing Board had scheduled 34 hearings; 24 were Applications for Variances and 13 were granted; six were for extensions; and one for a variance from a permit condition; that three Accusations were scheduled, one withdrew; and the cases involving Pacific Refining in Hercules and Powerstone Batteries in Fairfield were heard.

Dr. Hughes stated the variance application of particular interest to the Hearing Board was that of Xehrung Corporation, a producer of quick-dry coatings, primers and sealers, who felt they had been caught in the District's revision of Regulation 8, Rule 3, Section 304, which lowered the volatile organic compound standard. Dr. Hughes stated that although the Hearing Board vote was 3-2 in favor of granting the variance, they all felt the case was an example of the impact of the type of regulations that forced the development of technology, resulting in unforeseen difficulties for the producers. Dr. Hughes concluded his report stating the Hearing Board had 23 Emergency Variance requests; that 17 were granted, five denied, and one extended.

**PUBLIC HEARING TO CONSIDER AMENDMENTS TO  
REGULATION 1, SECTION 301 DEFINING NEGLIGENCE**

Chairperson Campbell opened the public hearing at 10:20 a.m.; and Mr. Powell presented the Clerk with nine Affidavits of Notice of Public Hearing.

Mr. Powell presented the APCO's report entitled, Public Hearing on Proposed Amendment to Section 301 of Regulation 1 Pertaining to Public Nuisance, dated April 12, 1990 stating the proposed amendment will provide that three or more violation notices validly issued to a facility for public nuisance in a 30-day period shall give rise to a rebuttable presumption that the violations resulted from negligent conduct; that the proposal would allow the District to seek penalties of up to \$10,000 per day rather than being restricted to the \$1,000 maximum; and it would provide a strong incentive for companies to be more vigilant in determining the cause of any potential nuisance-causing emissions.

Mr. Powell stated as a result of a workshop held April 6, 1990 at which comments were received from industry representatives, the rule had been modified to specify that the presumption is "rebuttable"; and that because the currently proposed amendment had been changed from staff's original proposal, it could not be adopted on this date; and recommended that the Public Hearing be continued until May 2, 1990.

Director Cooper referred to correspondence received from the San Francisco law firm of Shute, Mihaly & Weinberger (representing the Central Contra Costa County Sanitary District and the Delta Diablo Sanitation District) which recommended changes to the proposed amendment related to wastewater treatment plants being subjected to unfounded odor complaints. Mr. Powell responded that staff did not support the changes in the correspondence, and at the conclusion of the April 6 workshop, there was a consensus, that the addition of the word "rebuttable" was appropriate.

Chairperson Campbell called for public testimony and the following persons came forward:

ELLEN GARBER,  
SHUTE, MIHALY & WEINBERGER,  
REPRESENTING CONTRA COSTA COUNTY  
AND DELTA DIABLO SANITATION DISTRICTS

spoke in favor of the change, and suggested minor changes to make it a little clearer; adding that both districts they represented had been subjected to unfounded public nuisance complaints.

DAN PHELAN  
BALIA  
SAN FRANCISCO

stated he had attended the workshop at which three versions of the rule were reviewed; that he had agreed to insert the word "rebuttable"; and industry accepted the language and would cooperate.

After considerable Board discussion regarding the fine amount, and the burden of proof, Chairperson Campbell continued the Public Hearing to May 2; noting the item would then be considered for adoption.

<p><b>INFORMATIONAL HEARING PERTAINING TO PRIORITIES FOR CONDUCTING RISK ASSESSMENTS UNDER AB 2588</b></p>
--

Mr. Hill reviewed the APCO's report entitled, Informational Hearing on AB 2588 Prioritization, dated April 10, 1990, informing the Board that no action was necessary, but that State law required a Public Hearing be held for informational purposes only to inform the public of the process.

Mr. Hill reviewed the history of AB 2588, stating facilities subject are those that emit more than 25 tons per year or have existing toxics; adding that the Air Resources Board is currently in the process of identifying source categories. Mr. Hill noted that as of August 1, 1989 facilities were required to submit a plan to the District which would state how they intended to prioritize toxics; and from November 1989 to April 1990, facilities were required to submit reports that described their plans; the final step in the AB 2588 process being the preparation of the risk assessment.



Mr. Hill stated the subject of the public hearing is to discuss the Prioritization process that will be used to determine which of the 1200 facilities in the District's inventory will be required to prepare risk assessments; noting that the Prioritization score was not equivalent to high risk; and that in developing the process, several objectives had to be borne in mind: (1) that all of the high risk facilities in the inventory should be required to conduct a risk assessment; and that the effort would result in the protocol being a conservative one that is designed to over-predict any impacts; (2) that the procedure should be simple and easily verifiable; and (3) the process should eliminate many low-impact facilities.

Mr. Hill continued stating the procedure was developed after several efforts and that present California Air Pollution Control Officers Association (CAPCOA) guidelines reflect very closely the District's procedure; explaining that it was a two-step process: (1) multiplying the amount of toxic contaminants being emitted times a potency value; and (2) a dispersion adjustment.

Mr. Hill reviewed some of the controversy regarding the procedure; stating that the comments received so far could be divided into two groups: policy and technical issues; that the policy issues related to: (1) what is the definition of a high-priority source; (2) the method of calculation is extremely conservative and should be made to be more complex in order to make the results more realistic; (3) what is the definition of 'significant risk'; (4) should a dispersion adjustment be included, etc. Mr. Hill concluded his report stating staff felt the procedure would result in regulating most sources for which they had concern.

There was considerable Board discussion regarding the timeframe relative to the process; and Director Eshoo stated that if the document was to be distributed to the public, the Public Information Officer and Mr. Hill and his staff should be prepared to explain to the public what would be proposed to the Board of Directors relative to the rules. Director Hughan noted that there was a slight potential for causing panic if the document was distributed to the public, and suggested staff give very understandable responses.

Chairperson called for public testimony, and the following persons came forward:

ALVIN GREENBERG, PHD., CHAIRPERSON  
ADVISORY COUNCIL PUBLIC HEALTH COMMITTEE  
BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
SAN FRANCISCO

stated his Committee felt that the staff recommendation is an excellent and good approach to deal with the issue; that its technically sound procedures are scientifically valid, and they agreed wholeheartedly.

BRENT ARCHIBALD  
EXXON  
BENECIA

stated he agreed the Prioritization procedure should be a simple approach and reasonable; that EXXON was concerned about the methodology for determining the distance to the nearest receptor; adding that it would be a simple matter to apply the factor at the beginning of the process instead of at the end.



In response to Director Clevenger's request that staff submit alternative language regarding open space or buffer zones around facilities, Mr. Feldstein responded that the concern would be considered if the facility turned out to be a high risk facility and a full modeling study is directed at that time.

MICHAEL BELLIVEAU  
CITIZENS FOR A BETTER ENVIRONMENT  
SAN FRANCISCO

stated the staff proposal was not perfect, but it was a first step; and some improvements had been made; that if staff fulfilled the three commitments it had made which went beyond the AB 2588 program, most of CBE's concerns about the study process would be answered; adding that the District must be an aggressive leader in the area of reducing toxic emissions in the air; and that the Board should direct that the new toxics inventory be brought before the public for discussion.

NEIL GENDEL  
SIERRA CLUB  
HAZARDOUS WASTE AND MATERIALS ADVISORY COMMITTEE  
SAN FRANCISCO

expressed concern regarding the role that the Board of Directors plays in the AB 2588 process; and recommended the letter from Mr. Belliveau to the BAAQMD Advisory Committee be reviewed by the Board of Directors.

At the conclusion of Mr. Gendel's presentation, Mr. Feldstein recommended he review the staff report; and Director Diridon informed Mr. Gendel that the BAAQMD had the toughest Board of Directors in the State of California.

Chairperson Campbell announced that due to the lack of time, and the fact that many of the Directors had other commitments, she would direct that the agenda item scheduled to follow this item (Continuation of Staff Report on United Technology Corporation (UTC)) be continued to the regular Board meeting of May 16. Director Wilson requested staff be directed to schedule it prior to the Public Hearing scheduled on that date in order that all the speakers may have an opportunity to testify. Chairperson Campbell so ordered, and apologized to those members of the public who had signed up to speak.

DANIEL PHELAN  
BALIA  
SAN FRANCISCO

stated the concept of the Prioritization procedure is sound in the application, and that it should only be used as a ranking scheme that is logical; that the major concern of industry was the issue would not be reflected truthfully by the media; and it was their feeling that it was in the best interest of all for the results of the program to be presented to the public in a way that the information would be useful and descriptive, rather than alarming and confusing.



LARRY COWLES  
Co-CHAIR  
CLEAN AIR TASK FORCE  
SANTA CLARA COUNTY MANUFACTURING GROUP  
SANTA CLARA

presented a letter from Gary Burke, President, SCCMG to Chairperson Campbell, dated April 18, 1990 stating the SCCMG supported the overall goals and methods of the proposed AB 2588 Prioritization procedures, but felt there were still several areas which needed correction before final adoption.

Chairperson Campbell announced that the Public Hearing was closed; that there had been excellent comments made regarding the procedural plan that staff had formulated; that the Prioritization procedures would be refined, changed, and amended as experience with the process comes about; and that she agreed that a special meeting be held for the Directors to discuss the implications of the Toxics Inventory Report.

Director McPeak stated she supported the suggestion to hold a special session to discuss the Toxics Inventory; that when the meeting is held, the Board should consider some overall goals that would be adopted as policy by the Board; and Director Cooper added that the subject of toxics, as well as the AB 2588 process discussion, should be scheduled for a single "one item only" meeting, and Chairperson Campbell stated that the Board would have to make that commitment.

**CONTINUATION OF STAFF REPORT  
ON UNITED TECHNOLOGY CORPORATION (UTC)**

Chairperson Campbell directed that this item be postponed until the regular Board Meeting of May 16, 1990.

**REPORT OF AIR POLLUTION CONTROL OFFICER**

MILTON FELDSTEIN

Mr. Feldstein recommended the persons wishing to speak on the subject of United Technology Corporation should review the staff report which was available; and if they had comments, to please contact staff prior to the May 16 meeting.

\* \* \* \*

Mr. Feldstein stated Assemblyman Sher had introduced AB 2766 which authorizes the District to receive registration fee funding for the California Clean Air Act Program; that the bill had been heard April 17 and passed its first committee, but that he had noticed ABAG and MTC had not been among the supporters of the bill; and that he would hope that the Board members on those Boards would urge the agencies to support the bill as it is now written. Direction E. Campbell noted the MTC Legislative Committee had taken a position to support the bill; and that he would pass the information on to them.



Mr. Feldstein noted that the Air and Waste Management Association (AWMA) Annual Conference would begin June 24 in Pittsburg, Pennsylvania; and that staff would discuss the particulars at the next meeting.

**CHAIRPERSON'S REPORT**

SHIRLEY CAMPBELL

Chairperson Campbell directed the Clerk to inquire as to the whereabouts of Director Bob White (Napa County), who had been absent for at least three meetings to find out why he was not attending the regular Board Meetings.

**BOARD MEMBERS' COMMENTS**

There were none.

**TIME AND PLACE OF NEXT MEETING**

9:30 A.M., Wednesday, May 2, 939 Ellis Street, San Francisco, California.

**ADJOURNMENT**

The meeting adjourned at 12:16 p.m.

Respectfully submitted,

CAROL BRADLEY  
CLERK OF THE BOARDS

CB:jc